



Canadian Environmental  
Assessment Agency

Agence canadienne  
d'évaluation environnementale

CAI  
EP150  
-1994  
C13

# The Canadian Environmental Assessment Act

## TRAINING COMPENDIUM

3 1761 11555018 8



Canada







Deputy Prime Minister  
and Minister of the Environment



Vice-première ministre et  
ministre de l'Environnement

Hull, Canada K1A 0H3

Dear Participant,

Welcome to the education and training program of the new Canadian Environmental Assessment Agency. The Training Compendium provides an overview of the Canadian Environmental Assessment Act, its regulations and procedures. The content of the compendium represents seven years of consultation and development. I am pleased that we are now implementing a first-rate world-class environmental assessment regime of which we can all be justifiably proud.

Your involvement in this process is critical to the overall success of the Canadian Environmental Assessment Act. We can only realize our common goal of sustainable development by working together and by sharing our knowledge and experience. Our joint efforts will ensure that the new environmental assessment process lives up to its promises of greater order, certainty and effectiveness.

Thank you for joining us in making the Canadian Environmental Assessment Act work.

Yours sincerely,

Sheila Copps



Canada

AXF4060







## TABLE OF CONTENTS

1. Course Outline
2. Overheads
3. CLEAR Tutorial Program
4. Responsible Authority's Guide
5. A Citizen's Guide
6. Fact Sheet Series
7. The Canadian Environmental Assessment Act
8. Regulations
  - . Law List
  - . Inclusion List
  - . Exclusion List
  - . Comprehensive Study List



## TABLE OF CONTENTS

1	Introduction
2	Overview
3	Current Situation
4	Future Outlook
5	Conclusion
6	Appendix
7	References
8	Index
9	Summary
10	Notes
11	Footnotes
12	Endnotes
13	Appendix A
14	Appendix B
15	Appendix C
16	Appendix D
17	Appendix E
18	Appendix F
19	Appendix G
20	Appendix H
21	Appendix I
22	Appendix J
23	Appendix K
24	Appendix L
25	Appendix M
26	Appendix N
27	Appendix O
28	Appendix P
29	Appendix Q
30	Appendix R
31	Appendix S
32	Appendix T
33	Appendix U
34	Appendix V
35	Appendix W
36	Appendix X
37	Appendix Y
38	Appendix Z
39	Appendix AA
40	Appendix AB
41	Appendix AC
42	Appendix AD
43	Appendix AE
44	Appendix AF
45	Appendix AG
46	Appendix AH
47	Appendix AI
48	Appendix AJ
49	Appendix AK
50	Appendix AL
51	Appendix AM
52	Appendix AN
53	Appendix AO
54	Appendix AP
55	Appendix AQ
56	Appendix AR
57	Appendix AS
58	Appendix AT
59	Appendix AU
60	Appendix AV
61	Appendix AW
62	Appendix AX
63	Appendix AY
64	Appendix AZ
65	Appendix BA
66	Appendix BB
67	Appendix BC
68	Appendix BD
69	Appendix BE
70	Appendix BF
71	Appendix BG
72	Appendix BH
73	Appendix BI
74	Appendix BJ
75	Appendix BK
76	Appendix BL
77	Appendix BM
78	Appendix BN
79	Appendix BO
80	Appendix BP
81	Appendix BQ
82	Appendix BR
83	Appendix BS
84	Appendix BT
85	Appendix BU
86	Appendix BV
87	Appendix BW
88	Appendix BX
89	Appendix BY
90	Appendix BZ
91	Appendix CA
92	Appendix CB
93	Appendix CC
94	Appendix CD
95	Appendix CE
96	Appendix CF
97	Appendix CG
98	Appendix CH
99	Appendix CI
100	Appendix CJ
101	Appendix CK
102	Appendix CL
103	Appendix CM
104	Appendix CN
105	Appendix CO
106	Appendix CP
107	Appendix CQ
108	Appendix CR
109	Appendix CS
110	Appendix CT
111	Appendix CU
112	Appendix CV
113	Appendix CW
114	Appendix CX
115	Appendix CY
116	Appendix CZ
117	Appendix DA
118	Appendix DB
119	Appendix DC
120	Appendix DD
121	Appendix DE
122	Appendix DF
123	Appendix DG
124	Appendix DH
125	Appendix DI
126	Appendix DJ
127	Appendix DK
128	Appendix DL
129	Appendix DM
130	Appendix DN
131	Appendix DO
132	Appendix DP
133	Appendix DQ
134	Appendix DR
135	Appendix DS
136	Appendix DT
137	Appendix DU
138	Appendix DV
139	Appendix DW
140	Appendix DX
141	Appendix DY
142	Appendix DZ
143	Appendix EA
144	Appendix EB
145	Appendix EC
146	Appendix ED
147	Appendix EE
148	Appendix EF
149	Appendix EG
150	Appendix EH
151	Appendix EI
152	Appendix EJ
153	Appendix EK
154	Appendix EL
155	Appendix EM
156	Appendix EN
157	Appendix EO
158	Appendix EP
159	Appendix EQ
160	Appendix ER
161	Appendix ES
162	Appendix ET
163	Appendix EU
164	Appendix EV
165	Appendix EW
166	Appendix EX
167	Appendix EY
168	Appendix EZ
169	Appendix FA
170	Appendix FB
171	Appendix FC
172	Appendix FD
173	Appendix FE
174	Appendix FF
175	Appendix FG
176	Appendix FH
177	Appendix FI
178	Appendix FJ
179	Appendix FK
180	Appendix FL
181	Appendix FM
182	Appendix FN
183	Appendix FO
184	Appendix FP
185	Appendix FQ
186	Appendix FR
187	Appendix FS
188	Appendix FT
189	Appendix FU
190	Appendix FV
191	Appendix FW
192	Appendix FX
193	Appendix FY
194	Appendix FZ
195	Appendix GA
196	Appendix GB
197	Appendix GC
198	Appendix GD
199	Appendix GE
200	Appendix GF
201	Appendix GG
202	Appendix GH
203	Appendix GI
204	Appendix GJ
205	Appendix GK
206	Appendix GL
207	Appendix GM
208	Appendix GN
209	Appendix GO
210	Appendix GP
211	Appendix GQ
212	Appendix GR
213	Appendix GS
214	Appendix GT
215	Appendix GU
216	Appendix GV
217	Appendix GW
218	Appendix GX
219	Appendix GY
220	Appendix GZ
221	Appendix HA
222	Appendix HB
223	Appendix HC
224	Appendix HD
225	Appendix HE
226	Appendix HF
227	Appendix HG
228	Appendix HH
229	Appendix HI
230	Appendix HJ
231	Appendix HK
232	Appendix HL
233	Appendix HM
234	Appendix HN
235	Appendix HO
236	Appendix HP
237	Appendix HQ
238	Appendix HR
239	Appendix HS
240	Appendix HT
241	Appendix HU
242	Appendix HV
243	Appendix HW
244	Appendix HX
245	Appendix HY
246	Appendix HZ
247	Appendix IA
248	Appendix IB
249	Appendix IC
250	Appendix ID
251	Appendix IE
252	Appendix IF
253	Appendix IG
254	Appendix IH
255	Appendix II
256	Appendix IJ
257	Appendix IK
258	Appendix IL
259	Appendix IM
260	Appendix IN
261	Appendix IO
262	Appendix IP
263	Appendix IQ
264	Appendix IR
265	Appendix IS
266	Appendix IT
267	Appendix IU
268	Appendix IV
269	Appendix IW
270	Appendix IX
271	Appendix IY
272	Appendix IZ
273	Appendix JA
274	Appendix JB
275	Appendix JC
276	Appendix JD
277	Appendix JE
278	Appendix JF
279	Appendix JG
280	Appendix JH
281	Appendix JI
282	Appendix JJ
283	Appendix JK
284	Appendix JL
285	Appendix JM
286	Appendix JN
287	Appendix JO
288	Appendix JP
289	Appendix JQ
290	Appendix JR
291	Appendix JS
292	Appendix JT
293	Appendix JU
294	Appendix JV
295	Appendix JW
296	Appendix JX
297	Appendix JY
298	Appendix JZ
299	Appendix KA
300	Appendix KB
301	Appendix KC
302	Appendix KD
303	Appendix KE
304	Appendix KF
305	Appendix KG
306	Appendix KH
307	Appendix KI
308	Appendix KJ
309	Appendix KK
310	Appendix KL
311	Appendix KM
312	Appendix KN
313	Appendix KO
314	Appendix KP
315	Appendix KQ
316	Appendix KR
317	Appendix KS
318	Appendix KT
319	Appendix KU
320	Appendix KV
321	Appendix KW
322	Appendix KX
323	Appendix KY
324	Appendix KZ
325	Appendix LA
326	Appendix LB
327	Appendix LC
328	Appendix LD
329	Appendix LE
330	Appendix LF
331	Appendix LG
332	Appendix LH
333	Appendix LI
334	Appendix LJ
335	Appendix LK
336	Appendix LL
337	Appendix LM
338	Appendix LN
339	Appendix LO
340	Appendix LP
341	Appendix LQ
342	Appendix LR
343	Appendix LS
344	Appendix LT
345	Appendix LU
346	Appendix LV
347	Appendix LW
348	Appendix LX
349	Appendix LY
350	Appendix LZ
351	Appendix MA
352	Appendix MB
353	Appendix MC
354	Appendix MD
355	Appendix ME
356	Appendix MF
357	Appendix MG
358	Appendix MH
359	Appendix MI
360	Appendix MJ
361	Appendix MK
362	Appendix ML
363	Appendix MM
364	Appendix MN
365	Appendix MO
366	Appendix MP
367	Appendix MQ
368	Appendix MR
369	Appendix MS
370	Appendix MT
371	Appendix MU
372	Appendix MV
373	Appendix MW
374	Appendix MX
375	Appendix MY
376	Appendix MZ
377	Appendix NA
378	Appendix NB
379	Appendix NC
380	Appendix ND
381	Appendix NE
382	Appendix NF
383	Appendix NG
384	Appendix NH
385	Appendix NI
386	Appendix NJ
387	Appendix NK
388	Appendix NL
389	Appendix NM
390	Appendix NN
391	Appendix NO
392	Appendix NP
393	Appendix NQ
394	Appendix NR
395	Appendix NS
396	Appendix NT
397	Appendix NU
398	Appendix NV
399	Appendix NW
400	Appendix NX
401	Appendix NY
402	Appendix NZ
403	Appendix OA
404	Appendix OB
405	Appendix OC
406	Appendix OD
407	Appendix OE
408	Appendix OF
409	Appendix OG
410	Appendix OH
411	Appendix OI
412	Appendix OJ
413	Appendix OK
414	Appendix OL
415	Appendix OM
416	Appendix ON
417	Appendix OO
418	Appendix OP
419	Appendix OQ
420	Appendix OR
421	Appendix OS
422	Appendix OT
423	Appendix OU
424	Appendix OV
425	Appendix OW
426	Appendix OX
427	Appendix OY
428	Appendix OZ
429	Appendix PA
430	Appendix PB
431	Appendix PC
432	Appendix PD
433	Appendix PE
434	Appendix PF
435	Appendix PG
436	Appendix PH
437	Appendix PI
438	Appendix PJ
439	Appendix PK
440	Appendix PL
441	Appendix PM
442	Appendix PN
443	Appendix PO
444	Appendix PP
445	Appendix PQ
446	Appendix PR
447	Appendix PS
448	Appendix PT
449	Appendix PU
450	Appendix PV
451	Appendix PW
452	Appendix PX
453	Appendix PY
454	Appendix PZ
455	Appendix QA
456	Appendix QB
457	Appendix QC
458	Appendix QD
459	Appendix QE
460	Appendix QF
461	Appendix QG
462	Appendix QH
463	Appendix QI
464	Appendix QJ
465	Appendix QK
466	Appendix QL
467	Appendix QM
468	Appendix QN
469	Appendix QO
470	Appendix QP
471	Appendix QQ
472	Appendix QR
473	Appendix QS
474	Appendix QT
475	Appendix QU
476	Appendix QV
477	Appendix QW
478	Appendix QX
479	Appendix QY
480	Appendix QZ
481	Appendix RA
482	Appendix RB
483	Appendix RC
484	Appendix RD
485	Appendix RE
486	Appendix RF
487	Appendix RG
488	Appendix RH
489	Appendix RI
490	Appendix RJ
491	Appendix RK
492	Appendix RL
493	Appendix RM
494	Appendix RN
495	Appendix RO
496	Appendix RP
497	Appendix RQ
498	Appendix RR
499	Appendix RS
500	Appendix RT
501	Appendix RU
502	Appendix RV
503	Appendix RW
504	Appendix RX
505	Appendix RY
506	Appendix RZ
507	Appendix SA
508	Appendix SB
509	Appendix SC
510	Appendix SD
511	Appendix SE
512	Appendix SF
513	Appendix SG
514	Appendix SH
515	Appendix SI
516	Appendix SJ
517	Appendix SK
518	Appendix SL
519	Appendix SM
520	Appendix SN
521	Appendix SO
522	Appendix SP
523	Appendix SQ
524	Appendix SR
525	Appendix SS
526	Appendix ST
527	Appendix SU
528	Appendix SV
529	Appendix SW
530	Appendix SX
531	Appendix SY
532	Appendix SZ
533	Appendix TA
534	Appendix TB
535	Appendix TC
536	Appendix TD
537	Appendix TE
538	Appendix TF
539	Appendix TG
540	Appendix TH
541	Appendix TI
542	Appendix TJ
543	Appendix TK
544	Appendix TL
545	Appendix TM
546	Appendix TN
547	Appendix TO
548	Appendix TP
549	Appendix TQ
550	Appendix TR
551	Appendix TS
552	Appendix TT
553	Appendix TU
554	Appendix TV
555	Appendix TW
556	Appendix TX
557	Appendix TY
558	Appendix TZ
559	Appendix UA
560	Appendix UB
561	Appendix UC
562	Appendix UD
563	Appendix UE
564	Appendix UF
565	Appendix UG
566	Appendix UH
567	Appendix UI
568	Appendix UJ
569	Appendix UK
570	Appendix UL
571	Appendix UM
572	Appendix UN
573	Appendix UO
574	Appendix UP
575	Appendix UQ
576	Appendix UR
577	Appendix US
578	Appendix UT
579	Appendix UU
580	Appendix UV
581	Appendix UW
582	Appendix UX
583	Appendix UY
584	Appendix UZ
585	Appendix VA
586	Appendix VB
587	Appendix VC
588	Appendix VD
589	Appendix VE
590	Appendix VF
591	Appendix VG
592	Appendix VH
593	Appendix VI
594	Appendix VJ
595	Appendix VK
596	Appendix VL
597	Appendix VM
598	Appendix VN
599	Appendix VO
600	Appendix VP
601	Appendix VQ
602	Appendix VR
603	Appendix VS
604	Appendix VT
605	Appendix VU
606	Appendix VV
607	Appendix VW
608	Appendix VX
609	Appendix VY
610	Appendix VZ
611	Appendix WA
612	Appendix WB
613	Appendix WC
614	Appendix WD
615	Appendix WE
616	Appendix WF
617	Appendix WG
618	Appendix WH









Digitized by the Internet Archive  
in 2022 with funding from  
University of Toronto

<https://archive.org/details/31761115550188>











# PAPER COPIES OF TRAINING TRANSPARENCIES

Paper copies of the transparencies used during the *CEAA* training sessions are inserted here for participants.

If you would like more information on our training sessions, please fill out this form and fax it to (819) 994-1469.

---

I would like more information on future *CEAA* training sessions, including dates and locations:

Given Name		Family Name	
Title			
Organization			
Mailing Address			
City	Province		Postal Code
Telephone (    )		Fascimile (    )	

**NOTE:** The price of the manual can be deducted from the cost of training sessions.















The Canadian Environmental Assessment Agency Presents

# CLEAR

A Computerized Guide to  
the Canadian Environmental Assessment Act

**WINDOWS** version

Minimum requirements:

- Microsoft Windows 3.0 or later, running in standard or enhanced mode
- 80286 or higher microprocessor
- CGA, EGA, VGA or other Windows compatible displays
- 1MB of memory





Diskette: An Interactive Guide  
to the Canadian  
Environmental  
Assessment Act

shelved with CDs & diskettes.  
Ask at Desk.













Canadian Environmental  
Assessment Agency

Agence canadienne  
d'évaluation environnementale

## The Canadian Environmental Assessment Act

# RESPONSIBLE AUTHORITY'S GUIDE



Canada

The **Responsible Authority's Guide** is intended for educational purposes only. It should not be perceived as a substitute for the *Canadian Environmental Assessment Act*. In the event of any inconsistency between this guide and the Act, the latter would prevail. Individuals with specific legal problems are urged to seek legal advice.

*An Invitation to Users of the Responsible Authority's Guide*

*The Canadian Environmental Assessment Agency will update the guide in response to users' comments and needs as they gain experience with the CEAA. The Agency welcomes comments and suggestions from readers. These should be addressed to:*

*Director  
Process Development  
Canadian Environmental Assessment Agency  
200 Sacre Coeur Blvd.  
Hull, Quebec K1A 0H3  
Tel: (819) 997-1000  
Fax: (819) 994-1469*

November, 1994

# Table of Contents

<b>The Responsible Authority's Guide</b> .....	<b>1</b>
<b>Introduction</b> .....	<b>6</b>
Environmental Assessment in Canada .....	6
The <i>Canadian Environmental Assessment Act</i> .....	8
The Canadian Environmental Assessment Agency .....	10
<b>Part I: The Manager's Guide</b> .....	<b>12</b>
Applying the <i>Canadian Environmental Assessment Act</i> .....	12
Key questions .....	12
Scope of the environmental assessment .....	17
Public registry .....	21
Expert federal departments .....	23
Public involvement .....	24
Self-directed Environmental Assessment .....	25
Screening .....	25
Comprehensive study .....	26
Factors to be considered .....	27
Review of the environmental assessment report .....	30
Decision by the responsible authority or Minister .....	30
Summary of responsibilities .....	31
Public Review .....	33
Need for a public review .....	33
Factors to be considered .....	34
Mediation .....	34
Panel review .....	35
Decision by the responsible authority .....	36
Summary of responsibilities .....	36
Working with Other Governments .....	37
<b>Part II: The Practitioner's Guide</b> .....	<b>40</b>
Purpose and Organization .....	40
Chapter 1: The Self-Directed Environmental Assessment: Screening and Comprehensive Study .....	42
1.1 The Self-directed Environmental Assessment .....	42
1.1.1 Screening .....	42
1.1.2 Class screening .....	45
1.1.3 Comprehensive study .....	47
1.2 Roles and Responsibilities .....	49
1.3 Start-up .....	54
1.3.1 Does the Act apply? .....	54
1.3.2 Selecting the environmental assessment track .....	61
1.3.3 The public registry .....	63
1.3.4 Public concerns .....	64
1.3.5 Working with other governments .....	67



1.4 Step 1: Scoping .....	68
1.4.1 Scope of the environmental assessment .....	68
1.4.2 Factors to be considered .....	75
1.4.3 Interested parties .....	76
1.4.4 Appropriate level of effort .....	79
1.5 Step 2: Assessing Environmental Effects .....	79
1.5.1 The project .....	80
1.5.2 The existing environment .....	81
1.5.3 Project-environment interactions .....	82
1.5.4 Other factors .....	85
1.6 Step 3: Mitigating Environmental Effects .....	88
1.7 Step 4: Determining the Significance of Adverse Environmental Effects ..	89
1.7.1 The question .....	89
1.7.2 The role of the public .....	89
1.7.3 Applying the criteria .....	90
1.8 Step 5: Preparing the Environmental Assessment Report .....	93
1.8.1 The screening report .....	93
1.8.2 The comprehensive study report .....	95
1.9 Step 6: Review of the Environmental Assessment Report .....	96
1.9.1 The screening report .....	96
1.9.2 The comprehensive study report .....	97
1.10 Step 7: Decision by the Responsible Authority and the Minister .....	98
1.10.1 Public concerns .....	98
1.10.2 Screening .....	100
1.10.3 Comprehensive Study .....	100
1.11 Step 8: Post-Decision Activity .....	101
1.11.1 Public notice .....	101
1.11.2 Follow-up program .....	102
1.11.3 Mitigation measures .....	103
1.12 The Self-directed Environmental Assessment Checklists .....	103
Chapter 2: The Public Review: Mediation and Panel Review .....	108
2.1 The Public Review .....	108
2.1.1 Mediation .....	109
2.1.2 Panel review .....	110
2.2 Roles and Responsibilities .....	111
2.3 Key Steps .....	111
2.3.1 Step 1: Determining whether mediation is appropriate .....	117
2.3.2 Step 2: Establishing terms of reference .....	117
2.3.3 Step 3: Appointing a mediator or panel .....	118
2.3.4 Step 4: Public review by the mediator or panel .....	119
2.3.5 Step 5: Report of the mediator or panel .....	120
2.3.6 Step 6: Decision by the responsible authority .....	121
2.3.7 Step 7: Post-decision activity .....	123
2.4 The Public Review Checklists .....	125

<b>Appendices*</b> .....	130
<b>A. The Law List</b> .....	130
<b>B. Exclusion List for Undertakings in Relation to a Physical Work</b> .....	130
<b>C. Inclusion List for Physical Activities Not Relating to a Physical Work</b> .....	130
<b>D. Comprehensive Study List</b> .....	130
<b>Reference Guide: Addressing Cumulative Environmental Effects</b> .....	134
<b>1. Introduction</b> .....	134
<b>2. The Concept of Cumulative Environmental Effects</b> .....	134
<b>3. Cumulative Environmental Effects and the Canadian Environmental         Assessment Act</b> .....	136
<b>4. General Considerations</b> .....	139
<b>4.1 Advice and Consultation</b> .....	139
<b>4.2 Documentation</b> .....	140
<b>4.3 Uncertainty</b> .....	140
<b>4.4 Level of Effort</b> .....	141
<b>5. Framework for Addressing Cumulative Environmental Effects in Federal         Environmental Assessments</b> .....	141
<b>5.1 Step 1: Scoping</b> .....	142
<b>5.2 Step 2: Analysis</b> .....	145
<b>5.3 Step 3: Mitigation</b> .....	146
<b>5.4 Step 4: Determining the Significance of the Effects</b> .....	147
<b>5.5 Step 5: Follow-up</b> .....	148
<b>6. Further Reading</b> .....	150
<b>6.1 General References</b> .....	150
<b>6.2 References on Methods to Assess Cumulative Environmental             Effects</b> .....	150
<b>Appendix A: Identifying Future Projects to be Considered in an     Environmental Assessment</b> .....	153
<b>Reference Guide: The Public Registry</b> .....	158
<b>1. Introduction</b> .....	158
<b>2. The Public Registry and the <i>Canadian Environmental Assessment Act</i></b> .....	158
<b>2.1 The Concept</b> .....	158
<b>2.2 General Obligations of a Responsible Authority</b> .....	159
<b>3. The Public Registry Framework</b> .....	159
<b>3.1 Benefits to the RA</b> .....	160
<b>3.2 Federal EA Index</b> .....	160
<b>3.3 RA Document Listings</b> .....	161
<b>3.4 EA Documents</b> .....	162
<b>4. Guidelines for Responsible Authorities</b> .....	162
<b>4.1 Coordination with Other RAs</b> .....	162
<b>4.2 Document Clearing</b> .....	163
<b>4.3 Cost Recovery</b> .....	172
<b>4.4 Responding to Requests</b> .....	175
<b>4.5 Official Language Obligations</b> .....	177

<b>Reference Guide: Determining Whether A Project is Likely to Cause Significant Adverse Environmental Effects</b> .....	182
<b>1. Introduction</b> .....	182
<b>2. The Concept of Significance</b> .....	182
<b>3. The Requirements of the <i>Canadian Environmental Assessment Act</i></b> .....	183
<b>4. A Framework</b> .....	187
<b>4.1 Step 1: Deciding Whether the Environmental Effects are Adverse</b> .....	187
<b>4.2 Step 2: Deciding Whether the Adverse Environmental Effects are Significant</b> .....	188
<b>4.3 Step 3: Deciding Whether the Significant Adverse Environmental Effects Are Likely</b> .....	193
<b>5. Further Reading</b> .....	195
<b>Glossary</b> .....	198
<b>Subject Index to the <i>Canadian Environmental Assessment Act</i></b> .....	205
<b>Index</b> .....	213
<b>List of Figures</b>	
<b>Figure 1: CEAA Process Overview</b> .....	13
<b>Figure 1-1: Key Steps of the Self-Directed Environmental Assessment</b> .....	43
<b>Figure 1-2: Does the Act Apply?</b> .....	55
<b>Figure 1-3: Is the Proposal a "Project" Under the CEAA?</b> .....	56
<b>Figure 1-4: Determining the EA Track</b> .....	62
<b>Figure 2-1: Key Steps of the Public Review</b> .....	116
<b>List of Tables</b>	
<b>Table 1-1: Roles and Responsibilities of Participants in a Screening</b> .....	50
<b>Table 1-2: Roles and Responsibilities of Participants in a Comprehensive Study</b> .....	52
<b>Table 1-3: Screening Checklist</b> .....	104
<b>Table 1-4: Comprehensive Study Checklist</b> .....	105
<b>Table 2-1: Roles and Responsibilities of Participants in a Mediation</b> .....	112
<b>Table 2-2: Roles and Responsibilities of Participants in a Panel Review</b> .....	114
<b>Table 2-3: Possible Courses of Action by RA following a Public Review</b> .....	122
<b>Table 2-4: Mediation Checklist</b> .....	126
<b>Table 2-5: Panel Review Checklist</b> .....	127



# The Responsible Authority's Guide

## Purpose

The **Responsible Authority's Guide** is one part of the **Canadian Environmental Assessment Act Procedural Manual**, a set of reference materials designed to provide guidance on the application of the *Canadian Environmental Assessment Act* (Act) to federal government departments and agencies, provincial and municipal governments, private sector proponents of projects requiring federal funding or decisions, and members of the public interested in environmental assessment.

The guide interprets the legal framework established by the Act and provides guidance to responsible authorities (RAs) for conducting environmental assessments (EAs) of projects in compliance with the Act. It is designed for those within federal departments and agencies who are required to plan, manage, conduct, review, or otherwise participate in federal environmental assessments. It consists of separate guides for managers and environmental assessment practitioners, and includes a set of detailed reference guides on specific environmental assessment topics.

The other major component of the **Procedural Manual** is the **Agency Procedures Guide**. It provides a step-by-step explanation of the procedures that should be followed in meeting the responsibilities of the **Canadian Environmental Assessment Agency** (CEAA/Agency). It is intended for staff of the Agency, mediators, and the chairpersons and members of public review panels.

The **Responsible Authority's Guide** addresses

- . the objectives and principles of the Act;
- . the EA process established by the Act;
- . the procedures for conducting EAs of projects in compliance with the Act;
- . the obligations of RAs;
- . the roles and responsibilities of participants in the process;
- . guidelines on key topics.

The guide is also designed to be used in the development of departmental-specific operational procedures and training related to environmental assessment.

## Approach

The **Responsible Authority's Guide** is written from a **user's point of view**. It is not a clause-by-clause explanation of the Act. Rather, it addresses the process of environmental assessment as set out in the Act, providing guidance on what needs to be done, when it must be done, and what decisions are required. Although the focus is on procedures, the guide also identifies many of the methods and techniques that can be used at various steps in the EA process. Key steps, concepts, and applications are illustrated throughout the guide by the use of examples.

Additionally, the focus is on **mandatory** procedures. Emphasis is given to ensuring that RAs are aware of what is required to comply with the legislation. Less attention is given to practices and procedures that, while perhaps promoting better EAs, are beyond the scope of the legislation.

The guide is also designed to meet the **needs of different users** -- from those needing only an overview of the major requirements of the Act, to those requiring a detailed explanation of procedures.

## Organization

The Responsible Authority's Guide comprises the following sections:

- An **Introduction** gives an overview of the objectives and guiding principles of the Act and of the role of the CEAA.
- **Part I: The Manager's Guide** provides an overview of the federal EA process and summarizes the roles and responsibilities of participants. It is written for federal government managers who need to be aware of the requirements of the Act and the obligations placed on their department or agency.
- **Part II: The Practitioner's Guide** reviews the federal EA process in detail. It is intended for those responsible for planning, conducting, reviewing, or participating in federal EAs. Part II details the procedures required to conduct EAs in compliance with the legislation, with separate chapters on the self-directed EA in the form of a screening or comprehensive study, and on the public review in the form of mediation or panel review. Part II also includes a set of appendices that focus on the key regulations to the Act relevant to practitioners.

- **Part III: Reference Guides** provides detailed guidance on key topics relating to the federal EA process. Three reference guides are included in Part III:
  - . "Addressing Cumulative Environmental Effects";
  - . "Determining Whether a Project Is Likely to Cause Significant Adverse Environmental Effects";
  - . "The Public Registry."

Additional reference guides will be prepared, including

- . "Assessing the Effects on Health";
- . "Assessing the Effects on Socioeconomic Conditions";
- . "Determining the Capacity of Renewable Resources to Meet Present and Future Needs";
- . "Determining Environmental Effects on Physical and Cultural Heritage";
- . "The Follow-up Program";
- . "Public Involvement."

## Updates

The **Responsible Authority's Guide** is intended to evolve over time as departments, project proponents, and EA practitioners gain experience with the Act, and as additional policy and legal decisions relating to it are made. To help users of the guide keep up-to-date with these decisions, the Agency intends to issue regular **Responsible Authority Guide Updates**.





# INTRODUCTION



## Introduction

### Environmental Assessment in Canada

During the last decade, Canadians have become increasingly aware of the importance of maintaining both a strong economy and a healthy environment.

In the 1980s the World Commission on Environment and Development, known as the Brundtland Commission, focused public concern on the need for policies and practices that promote sustainable development -- development that meets the needs of the present without compromising the ability of future generations to meet their own needs. Canada has endorsed the goal of sustainable development, and is actively supporting efforts to achieve it.

Environmental assessment (EA) is a powerful tool to help decision-makers achieve the goal of sustainable development.

EA provides a systematic approach for identifying the environmental effects of proposed projects. By identifying adverse environmental effects before they occur, EAs allow decision-makers to modify plans so that the effects can be minimized or eliminated.

As a planning tool, EA has been applied in the Canadian government since 1974 to predict the likely environmental effects of proposals requiring a federal involvement or decision. The process was updated in 1977 and reinforced in 1984 when the Environmental Assessment and Review Process (EARP) guidelines were issued by order-in-council.

These guidelines were an important and effective step in helping to integrate environmental factors into the decision-making process for projects involving the federal government. Over time, however, it became clear that the EA process needed to be strengthened. There was a need to provide clear procedures for conducting EAs, to clarify the responsibilities of certain federal agencies and bodies such as Crown corporations, and to provide a mechanism for funding public participation in the EA process.

In 1987 the federal government began extensive public consultations on reforming the EARP. Participants called for an accountable and administratively simple process based in legislation that would be effective, efficient, fair, and open. The Brundtland Commission also gave new impetus and focused growing public demand for reforming the EA process in Canada. In its report, "Our Common Future," the Commission concluded that EA processes would be more effective if they were mandatory and entrenched in legislation.



More recently, court decisions have underscored the need for reforming the federal EA process. In decisions on the Rafferty-Alameda and Oldman River dams, the courts ruled that what was thought to have been a non-enforceable guideline was, in fact, a legally enforceable law of general application that imposes added duties on top of existing federal responsibilities. The EARP guidelines, however, were not drafted with a view to strict legal interpretation, thereby creating administrative difficulty and uncertainty.

In addition, there has been a growing realization that the different EA systems of the federal and provincial governments need to be harmonized. Without close cooperation, a project might need to undergo separate EAs by different governments, resulting in unnecessary duplication, confusion, and excessive costs for all parties.

In June 1990 the federal Minister of the Environment announced a reform package that included new EA legislation, an EA process for new policy and program proposals, and a participant funding program that supports public participation in the EA process. The reforms will help ensure that environmental considerations are integrated into federal decision-making processes, and will help develop greater harmonization of EA systems across Canada. By introducing a degree of certainty in the EA process, the reforms will also reduce costs and time demands for all participants.

In June 1992, after nation-wide consultations and comprehensive parliamentary review, Bill C-13, the *Canadian Environmental Assessment Act* (Act) received royal assent.

## The *Canadian Environmental Assessment Act*

The Act sets out, for the first time in legislation, responsibilities and procedures for the environmental assessment of projects involving the federal government. The Act establishes a clear and balanced process that brings a degree of certainty to the EA process and helps responsible authorities (RAs) determine the environmental effects of projects early in their planning stage.

The Act applies to projects for which the federal government holds decision-making authority -- whether as proponent, land administrator, source of funding, or regulator.

Although the EA process established by the Act is similar in many respects to the EARP guidelines order, it does introduce changes in several important areas. These include

- the definition of a "project";
- the definition of an "environmental effect";
- the introduction of comprehensive study and mediation as new EA tracks that a project might follow;
- requirements to keep an ongoing record of all documents related to the EA in a public registry;
- the requirement to consider the need for a follow-up program;
- mandatory public input into an EA at certain points.

### *Federal-Provincial Agreements*

*Some projects may require authorization by both provincial or territorial governments and the federal government. To avoid the duplication and excessive costs of separate EAs, the Act gives the Minister the power to enter into agreements or arrangements with any jurisdiction for the purpose of assessing the environmental effects of projects where both parties have authorization responsibilities.*

*These bilateral agreements provide guidelines for cooperating on EAs, including roles and responsibilities relating to joint panels, mediation, screening, notification, and cost-sharing. By promoting cooperation and "harmonization" of EA procedures among governments, the agreements help achieve more effective and consistent EA processes in Canada.*

## ***Objectives***

The Act has four stated objectives:

- To ensure that the environmental effects of projects receive careful consideration before RAs take action;
- To encourage RAs to take actions that promote sustainable development, thereby achieving or maintaining a healthy environment and a healthy economy;
- To ensure that projects to be carried out in Canada or on federal lands do not cause significant adverse environmental effects outside the jurisdictions in which the projects are carried out;
- To ensure that there be an opportunity for public participation in the EA process.

## ***Guiding Principles***

In general, the following principles should be used in the application of the Act:

- ***Early application***

The process should be applied as early in the project's planning stages as practicable, and before irrevocable decisions are made, so that environmental factors are incorporated into decisions in the same way that economic, social, and policy factors have traditionally been incorporated.

- ***Accountability***

The self-assessment of projects for environmental effects by federal departments and bodies is a cornerstone of the process.

- ***Efficient and cost effective***

Each project should undergo only one EA, and the level of effort required to undertake an EA for the project should match the scale of the project's likely environmental effects.

- ***Open and participatory***

Public participation is an important element of an open and balanced EA process.



## The Canadian Environmental Assessment Agency

The Act establishes the Canadian Environmental Assessment Agency (CEAA) to replace the Federal Environmental Assessment Review Office (FEARO). The new Agency reports to the Minister of the Environment, but operates independently of any federal department, including Environment Canada, or any other agency.

The mission of the Agency is

*"To provide effective means of integrating environmental factors into federal planning and decision-making in a manner that takes into account public values and the goal of sustainable development."*

Under the Act, the Agency's objectives are to

- administer the EA process;
- promote uniformity and harmonization in the assessment of environmental effects across Canada at all levels of government;
- promote EA research, including the development of EA techniques and practices;
- promote EA in a manner that is consistent with purposes of the Act;
- ensure opportunities are provided for public participation in the EA process.

In carrying out its responsibilities, the Agency has three major areas of activity:

- It develops, evaluates, promotes, and monitors the policy, legislative, regulatory, administrative and international aspects of EA processes, by developing, for example, regulations, a federal public registry system, and federal-provincial EA harmonization agreements.
- It directly manages certain elements of the Act, including panel reviews, mediations, and the review of comprehensive study and class screening reports.
- It supports initiating departments (RAs) in the management of their self-directed assessment obligations, through such activities as education and training.

The Agency also provides procedural advice, and can use its independent position to help resolve procedural difficulties that could otherwise lead to delays in the assessment or necessitate a referral to a mediator or review panel.



**PART I:  
THE MANAGER'S GUIDE**



## Part I: The Manager's Guide

### Applying the *Canadian Environmental Assessment Act*

The fundamental purpose of the *Canadian Environmental Assessment Act* (Act) is to ensure that federal decision-makers are aware of and carry out their obligation to assess the environmental impacts of a project. The EA must be conducted early on in the project's development process, and before any irrevocable decisions are made.

Figure 1 summarizes the major decision points of the EA process.

#### Key questions

##### *What is a project?*

Under the Act, a project can be either

- an undertaking in relation to a physical work, such as any proposed construction, operation, modification, decommissioning, abandonment or other undertaking;
- or
- any proposed physical activity not relating to a physical work that is listed in the regulations to the Act.

#### *Examples of project definition*

##### *Undertakings in relation to a physical work*

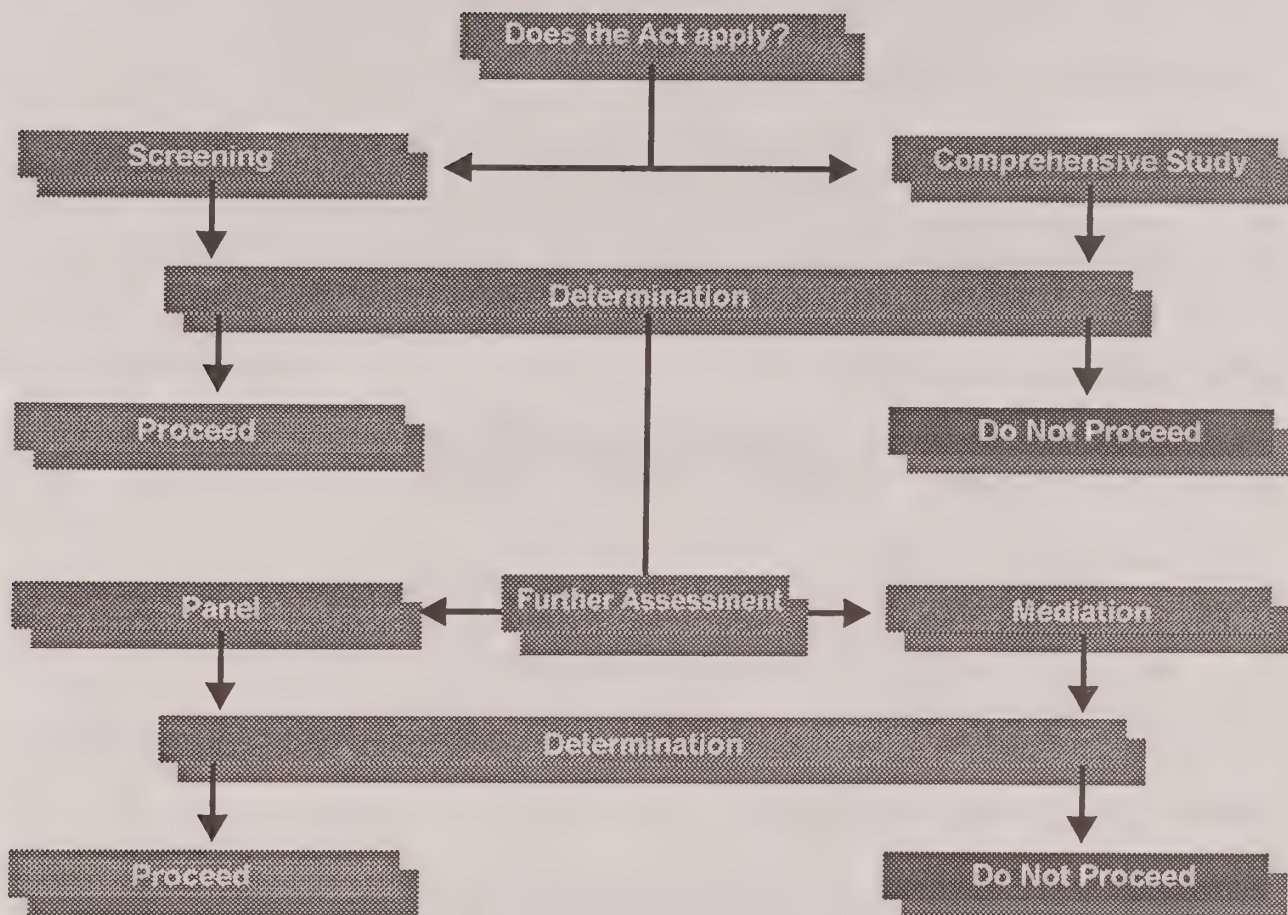
- *dredging as part of constructing a bridge*
- *construction of a fish ladder*

##### *Physical activities not relating to a physical work*

- *the movement of CFCs out of Canada*
- *the harvesting of marine plants in coastal waters*
- *low-level flying over the back country of a National Park*
- *ocean dumping of substances prescribed by the Canadian Environmental Protection Act*



**Figure 1:** *Canadian Environmental Assessment Act Process Overview*



### ***What is a federal authority?***

Under the Act, a federal authority is

- a federal Minister of the Crown;
- an agency or other body of the federal government that is ultimately accountable to Parliament through a federal Minister of the Crown;
- any federal department or departmental corporations set out in Schedule I or II to the *Financial Administration Act*;
- any other body prescribed in the regulations to the Act.

The following are not federal authorities under the Act:

- the governments of the Yukon or Northwest Territories;
- a council or band under the Indian Act;
- harbour commissions;
- Crown corporations within the meaning of the *Financial Administration Act*.

### ***When does the Act apply?***

An EA is required if a federal authority exercises or performs one or more of the following powers, duties, or functions in relation to a project:

- proposes the project;
- grants money or any other form of financial assistance to the project;
- grants an interest in land to enable a project to be carried out (that is, sells, leases, or otherwise transfers control of land); or
- exercises a regulatory duty in relation to a project, such as issuing a permit or licence, that is included in the Law List prescribed in the regulations to the Act.

### ***What is a responsible authority?***

The federal authority that either has proposed the project or has been asked to provide support or approval in the form of funding, land, or a permit, licence, or other approval specified by regulation is known as the project's responsible authority (RA). Among other things, the RA

- must ensure that an EA of the project is conducted as early as possible, and before irrevocable decisions are made regarding the proposed project;
- shall not provide federal support to the project before the EA is completed;
- shall not provide federal support to the project if, following an EA, an RA concludes that the adverse environmental effects of a project are not justified in the circumstances.

### ***Is the project likely to involve transboundary effects?***

The transboundary provisions of the Act give the Minister of the Environment the authority to refer a project directly to a mediator or panel, if the Minister believes that the project may cause significant adverse transboundary environmental effects in cases when the project would otherwise not require an EA, and no other federal Act or regulations apply.

Transboundary effects under the Act refer to adverse effects that are likely to occur

- on federal lands (because of projects carried out outside these lands);
- off federal lands (because of projects carried out on these lands);
- across provincial boundaries; or
- across international boundaries.

Special EA procedures may be required if a project is likely to have significant adverse environmental effects across Canada's international boundaries. Canada is a signatory to the *Convention on Environmental Assessment in a Transboundary Context*. The *Convention* seeks to ensure that countries take measures to prevent, reduce, and control significant adverse transboundary environmental effects from proposed activities.

For more information on Canada's obligations under the *Convention*, the RA should contact the Agency.

### **What are the key stages to the EA process under the Act?**

There are four key stages to the EA process:

- start-up;
- the EA;
- decision by the RA;
- post-decision activity.

In start-up, the RA must determine whether the Act applies to the project, and which EA track will be followed.

In some cases, the first phase of the EA is a self-directed assessment through either a screening or a comprehensive study. These tracks are considered self-directed because the RA determines the scope of the EA, and directly conducts or manages the EA process in compliance with the requirements of the Act. If the project is not on the Comprehensive Study List, is not registered for a class screening, and has not been previously assessed, the RA must conduct the screening without the benefit of a class or previous screening report. Most projects will fall into this category.



*By one measure, screening is the most important EA track under the Act. The majority of federal projects -- perhaps 95% or more -- can be expected to be assessed through a screening or class screening.*

If the screening concludes that further investigation is needed, or if public concerns about the project warrant, the RA refers the project to the Minister of the Environment for a referral to mediation or a panel review. In the case of a comprehensive study, the Minister determines whether the project can be referred back to the RA for action or whether further investigation is required.

No matter which EA track is followed, the goal is to determine whether, after taking into account the implementation of any mitigation measures the RA considers appropriate, the project is likely to result in significant adverse environmental effects. Only those environmental effects as defined in the Act are considered in the determination, which must be supported by objective reasoning, based on scientific, technical, and other relevant information.

Upon completion of the EA, the RA must determine whether to provide federal support for the project (that is, whether it may undertake any action that enables the project to proceed). The fate of the project itself is the responsibility of the project's proponent. In some cases, of course, the RA will be the proponent. When this is not the case, however, the withholding of federal support or authorization may prevent the proponent from proceeding. In other cases, the proponent may be able to proceed without federal support.

Once the RA has made its decision, it must give public notice concerning its course of action and, if the project is to proceed, ensure that all appropriate mitigation measures are implemented. It must also determine whether a follow-up program is appropriate, and if so, design and implement one.

### ***What is a follow-up program?***

Under the Act, a follow-up program

- verifies the accuracy of the EA; and/or
- determines the effectiveness of any mitigation measures that have been implemented.

In a screening, the RA must consider whether a follow-up program is appropriate only when it has determined that it may provide federal support for the project.

comprehensive study, mediation, or panel review, on the other hand, must explicitly address the need for and requirements of a follow-up program during the assessment itself.

*When a follow-up program may be appropriate*

*The RA should develop a follow-up program for a project when the circumstances warrant. Examples include situations where*

- *the project involves a new or unproven technology*
- *the project involves new or unproven mitigation measures*
- *an otherwise familiar or routine project is proposed for a new or unfamiliar environmental setting*
- *the assessment's analysis was based on a new assessment technique or model, or there is otherwise some uncertainty about the conclusions*
- *project scheduling is subject to change such that environmental effects could result*

## **Scope of the environmental assessment**

The scope of the project and the scope of the assessment define the components of a proposed development and the environmental effects that should be included in an EA conducted under the Act.

### ***Scope of the project***

Under the Act, the RA must determine the scope of the project in a screening or comprehensive study. The scope of the project refers to those components of the proposed development that should be considered part of the project for the purposes of the EA.

In determining the scope of the project, therefore, the RA must consider:

- . which physical works fall within the scope of the project, and which undertakings in relation to those physical works fall within the scope of the project;
- or
- . which physical activities not in relation to a physical work (identified in the Inclusion List regulation) fall within the scope of the project.

### *The "principal project/accessory" test*

The Act does not provide direction to RAs in determining which physical works should be included within the scope of a project. To ensure consistency in scope of the project determinations, RAs should consider applying the "principal project/accessory" test. This test consists of two steps.

First, what is the principal project? The principal project is always either the undertaking in relation to a physical work or the physical activity for which a power, duty, or function is being exercised (therefore triggering the need for an EA under the Act. The principal project must always be included as part of the scoped project.

Second, are other physical works or physical activities accessory to the principal project? If so, then these may be included as part of the scoped project. Those physical works or physical activities not accessory to the principal project may not be included as part of the scoped project. To determine what is accessory to the principal project, the RA should apply the following two criteria:

- . **interdependence:** If the principal project could not proceed without the undertaking of another physical work or activity, then that other physical work or activity may be considered as a component of the scoped project.
- . **linkage:** If the decision to undertake the principal project makes the decision to undertake another physical work or activity inevitable, then that other physical work or activity may be considered as a component of the scoped project.

### *Same EA for related projects*

Under the Act, the RA can combine two or more triggered projects into the same EA if it determines that the projects are so closely related that they can be considered to form a single project.

In making this determination, RAs should apply the following three criteria:

- . **interdependence:** If the principal project could not proceed without the undertaking of another project, the two may be considered to form a single project.
- . **linkage:** If the decision to undertake the principal project makes the decision to undertake another project inevitable, the two may be considered to form a single project.
- . **proximity:** If the geographic study areas developed in relation to the scope of the assessment for the individual projects overlap, the two may be considered to form a single project.



Not all criteria must be met in every case. Each case must be considered on its own merit. However, the **proximity** criterion on its own will rarely be sufficient cause for the RA to combine two or more projects into the same EA.

### *Undertakings in relation to a physical work*

Finally, under the Act, the RA must include in the EA all relevant aspects of a physical work (that is, all undertakings in relation to that physical work) that are proposed or, in its opinion, are likely to be carried out. These undertakings could include, for example, the construction, operation, modification, decommissioning, or abandonment of a physical work. Such proposed undertakings or undertakings that are likely to be carried out must be included in the scope of the project even if there is no specific trigger for them. The assessment of all proposed undertakings or undertakings that are likely to be carried out in relation to a physical work should be conducted as early in the planning stages of the physical work as is practicable.

(Note that this applies only to undertakings in relation to a physical work and not to physical activities.)

#### *Scope of Project for EA Triggered by Federal Funding*

##### *Project:*

- . *Construction of an oil refinery in southern Saskatchewan by an oil company*
- . *An extension of a pipeline is required to the new refinery.*

##### *EA Trigger:*

- . *Funding contribution from Natural Resources Canada.*

##### *Scope of the project:*

###### *(i) Principal project:*

- . *construction of oil refinery*

###### *(ii) Accessory physical works:*

- . *under the linkage principle, the construction of the pipeline can be considered an accessory work of the construction of the refinery*

###### *(iii) Other undertakings in relation to the physical work:*

- . *operation, planned modifications, and decommissioning of refinery*
- . *operation of pipeline*

## ***Scope of the assessment***

Once the RA has determined the scope of the project, it must then address the question of the scope of assessment. The scope of assessment includes a determination of the environmental effects to be addressed, the scope of the environmental effects to be assessed, and the effects to be considered in making decisions regarding the project.

## ***Effects to be assessed***

The RA exercising any power, duty or function under section 5 of the Act must include in the assessment all factors that are relevant to the decision that the RA must make:

- all the factors that the Act requires an RA to consider, including all effects that fall within the Act's definition of "environmental effect", regardless of whether the effect falls within an area of federal jurisdiction. Section 1.4.2 below, addresses the statutory provisions in the Act for the scoping of environmental effects in greater detail;

and

- any factors that are relevant to the assessment of effects of the project in the environment that any other federal law or regulation require or permit the RA to consider. Where the RA is acting as a regulator this includes the factors that the law creating the RA's decision-making authority states must or may be considered.

Additionally, where the RA is

- the project proponent,
- asked to provide financial assistance, or
- asked to sell, lease or transfer its interest in lands,

it may also assess beyond the statutory requirements to the extent that it considers necessary in the circumstances. The RA may broaden the scope of assessment for these decisions because they relate to the operation of the Government itself or its property; matters which are within exclusive federal jurisdiction.

## ***Effects to be considered in making decisions***

If a factor is considered relevant to the decision that the RA must make (see "Effects to be Assessed" above), the RA must take it into account in making its decision whether to provide federal support for a project.

## *Attaching conditions*

Where the RA is

- the project proponent,
  - asked to provide financial assistance, or
  - asked to sell, lease or transfer its interest in lands, it may attach any condition or require any mitigation measure it considers appropriate in the circumstances.
- Where the RA takes a regulatory action that supports the project (that is, where the RA decides to issue an authorization under a statutory or regulatory provision on the Law List regulation), the conditions it attaches to the approval must pertain to the factors which are relevant to its decision:
- the factors that the Act requires the RA to consider, and
  - any factors that the RA must or may consider pursuant to the triggered federal law or regulation.

This analysis is based on recent decisions of the Supreme Court of Canada relating to the permitted scope of assessment under the EARP Guidelines Order. However, it is expected that the principles enunciated by the Court with respect to the Order will apply to the Act as well.

## **Public registry**

The Act is based, in large part, on the principle of public participation. To help realize this objective, public access to information upon which EAs are based is provided through a public registry.

### *Obligations*

The Act imposes two main obligations on RAs with respect to the public registry:

- to establish a public registry for the purpose of facilitating public access to the records relating to EAs;
- to operate such a registry in a manner to ensure convenient public access.

A public registry must be maintained in respect of every project for which an EA is conducted, regardless of whether the project undergoes a screening, comprehensive study, panel review, or mediation.

### *Organization*

The Agency has established a public registry framework within which all RAs can function. The framework seeks to provide all Canadians convenient access to



complete information about EAs carried out under the Act. It will also ensure consistency across the federal government, and assist RAs in meeting their public registry obligations in an efficient and convenient manner.

The framework consists of three components:

- **The Federal EA Index**

The Federal EA Index is an electronic listing of all EAs conducted by all RAs under the Act. The index provides "one-window" access to information on the who, what, when, where, and why of any EA conducted under the Act, regardless of the RA. It also directs the public to contacts and document listings related to specific EAs.

- **RA document listings**

The second component of the public registry system is the listing of all publicly available documents relating to each EA. The RA maintains such a listing (in electronic or hardcopy form) for each of its respective EAs. The RA has three key responsibilities with respect to its listings:

- . determining whether each document should be placed in the public registry;
- . maintaining a current list of documents for all active EAs;
- . ensuring the document listing is available to the public upon request.

- **EA documents**

The third component of the public registry system consists of the EA documents produced by, collected by, or submitted to the RA with respect to an EA. Key issues are

- . responding to requests in a timely manner;
- . determining the need to translate documents into the other official language;
- . applying cost recovery guidelines, when applicable.

### *Benefits*

The public registry system provides several important benefits to RAs:

- The framework allows all RAs to meet their registry obligations in a consistent, cost-effective manner that ensures convenient, low, or no-cost public access to information.
- RAs do not have to develop their own procedures.
- RA tasks are streamlined so as to minimize workload requirements.

- Many of the tasks build on current practices so as to minimize costs and workload requirements for RAs.
- Procedures make practical and effective use of technology whenever possible, further reducing the RA's workload and costs.
- Tasks can be phased-in where appropriate.

"The Public Registry" reference guide in Part III of the guide provides details on the organization of the public registry system, as well as guidelines in five key areas:

- coordination with other RAs;
- document clearing;
- responding to requests;
- cost recovery;
- official language considerations.

## **Expert federal departments**

Some federal authorities may be a source of baseline data, information, knowledge, or expertise relevant to the EA. These federal authorities, or expert federal departments, have a special role to play in the EA process. Under the Act, these expert departments must provide specialist information and expertise when requested by the RA, mediator, or panel.

Expert federal authorities include Agriculture Canada, Department of Natural Resources Canada, Environment Canada, Fisheries and Oceans Canada, Health Canada, Heritage Canada, and Indian Affairs and Northern Development.

Expert federal departments may be involved at every stage of the EA process, from reviewing terms of reference at the scoping step, and providing data during preparation of the EA report, to reviewing the report and appearing as an expert witness during a panel review. The independent review function is of particular importance, because it helps ensure the scientific and technical integrity of EA reports prepared under the Act.

The following general guidelines should apply to the RA when involving an expert department:

- The RA should try to identify and involve the relevant expert federal departments at the early stages of an EA.
- The RA's request for information or advice should relate directly to its EA, and should be clear and concise, in order to use the expert department's time most effectively.
- Expert departments should be expected to provide reasonably available (that is, "off-the-shelf") information, but not to undertake lengthy or costly research to

obtain the information.

- The "proponent pays" principle should apply in cases where the expert department undertakes new work, at the request of the RA, to provide necessary information or analysis.
- Prior to submitting a class screening report or comprehensive study report for Agency and public review, the RA should ensure that all relevant expert federal departments have reviewed it for scientific and technical accuracy, and that any concerns raised by these departments have been addressed.

## **Public involvement**

Since public involvement is a key objective of the EA process established by the Act, the RA should make an effort to understand the range of public concerns in a project. The public is not a single entity, but rather comprises varied interests: local residents, local environmental groups, small-business owners, and many others.

The public can also be a valuable source of information to the RA. Local community residents and indigenous peoples can provide helpful information at all steps of an EA. Public input also will be appropriate when there are public concerns about a proposed project, and when the RA needs to build a consensus among different groups. Thus, the RA should determine as early as possible when and to what extent public input should be sought.

A public involvement program goes beyond allowing the public to comment on a completed screening report or comprehensive study report. Rather, it seeks to provide the public with a variety of opportunities to be informed at all stages of the EA, to offer ideas and information, to react to proposals in order to influence recommendations and decisions, and to be informed of all decisions.



### *Public concerns*

*Public concerns, if not addressed sufficiently in the screening or comprehensive study, can warrant a referral to a public review either through mediation or panel review. Public concerns can be expressed in many ways:*

- *correspondence and telephone calls to the Minister, local MPs, the Agency, or the department*
- *media coverage of public concerns*
- *community events, such as demonstrations or meetings about the project;*
- *formal interventions*
- *informal communication*

*RAs should not necessarily rely on numbers when judging the importance of public concerns. Even a few letters or calls may express public concerns, particularly if they are from people who will be most directly affected by a project.*

## **Self-directed Environmental Assessment**

The majority of federal projects requiring an EA will undergo either a screening or a comprehensive study. Both can be considered self-directed environmental assessments in the sense that the RA determines the scope of the EA and the scope of the factors to be considered, directly manages the EA process, and ensures the EA report is prepared.

In practice, the project proponent may conduct the EA, prepare the report, and design and implement mitigation measures and a follow-up program. The RA alone, however, remains directly responsible for ensuring that the screening or comprehensive study is carried out in compliance with the Act, and for deciding on the course of action with respect to the project following the screening or comprehensive study.

### **Screening**

Screening is a self-directed assessment in which the RA retains the greatest degree of management and flexibility over the scope and pace of the EA process. Screenings will vary in time, length, and depth of analysis, depending on the circumstances of the proposed project, the existing environment, and the likely environmental effects. Some screenings may require only a brief review of the available information and a one- or

two-page report; others may need new background studies and be as thorough and rigorous as a comprehensive study.

In cases where there is sound knowledge of the environmental effects and appropriate mitigation measures for a group or class of projects, the RA may be able to use all or part of a class screening report.

#### *Different levels of screening*

*A screening is the most flexible EA track, accommodating a wide range of projects. A railway crossing, for example, may require only a simple screening without the involvement of outside experts, the public, or the Minister of the Environment. The RA for a proposed gold mine in an environmentally sensitive area may, on the other hand, decide that the assessment needs to*

- . consider the project's purpose and any alternative means of carrying out the project*
- . collect additional information*
- . involve the public and outside experts.*

#### *Future use of a screening report*

*Besides forming the basis of the decision on the project, an RA's screening report will become a source of information on environmental effects and mitigation for future screenings, and eventually may be used as a class screening report. Some departments may want to establish a database of completed screening reports that is easily accessible to those responsible for screening.*

### **Comprehensive study**

Although the majority of projects covered by the Act will undergo an EA through a screening, some projects will require a comprehensive study, a more intensive and rigorous assessment of their environmental effects. Conducting a comprehensive study may eliminate the need for further review by mediation or review panel.

The Comprehensive Study List (Appendix D), established by regulation, deals with those projects that have the potential to result in significant environmental effects regardless of their location. Such projects tend to be large-scale and often generate considerable public concern. Examples include

- large oil and natural gas developments;
- major electrical-generation projects;
- large mining projects;
- major pipelines;
- nuclear power facilities, including uranium mines;
- large industrial plants.

In a comprehensive study, the RA retains a primary management role over the EA, although it has more obligations than in a screening. These include the need to consider a wider range of factors, to submit the comprehensive study report for review by the Agency and the public, to take public comments into account, and to consider the need for a follow-up program. In addition (opposed to a screening), the Minister of the Environment has a key role to play in determining the next step in the EA process, when the comprehensive study has been completed.

Federal authorities with specialist information and expertise have a special role to play in a comprehensive study. Under the Act, expert departments must provide specialist information and expertise related to the project when requested by the RA. To ensure that all scientific or technical matters have been adequately addressed in the comprehensive study report prior to submitting the report to the Agency, the RA should make certain that all relevant expert federal departments have provided specialist information or expertise, and have had an opportunity to comment on the comprehensive study report.

Given the scale and complexity of many of the projects that will undergo a comprehensive study, the RA should also consider establishing a public consultation program during preparation of the comprehensive study report.

The comprehensive study report submitted to the Agency for review should include a record of consultations with expert federal departments and the public, as well as a discussion of any unresolved scientific or technical concerns.

## **Factors to be considered**

The RA determines the scope of the factors to be considered in the self-directed EA. Both a screening and comprehensive study must consider the following factors:

- the environmental effects of the project, including environmental effects of



### *Sample outline for an EA report*

*The RA can develop its own simple format for a screening report or comprehensive study report. Following is a sample outline:*

- *Name of proposal*
- *Brief description (location, cost, etc.)*
- *Nature of effects identified*
- *Proposed mitigation measures*
- *Federal/provincial agencies consulted*
- *Public advised (list methods as applicable)*
- *Approximate date of implementation*
- *Conclusion and rationale*
- *Departmental/agency contact (name and telephone number)*

malfunctions or accidents that may occur in connection with the project, and any cumulative environmental effects that are likely to result from the project in combination with other projects or activities that have been or will be carried out;

- the significance of these environmental effects;
- comments from the public received in accordance with the Act and its regulations;
- technically and economically feasible measures that would mitigate any significant adverse environmental effects of the project;
- any other matter relevant to the screening or comprehensive study that the RA or, in the case of a comprehensive study, the Minister, may require.

Environmental effects of the project are changes in the biophysical environment caused by the project, as well as certain effects that flow directly from those changes, including effects on

- human health;
- socioeconomic conditions;
- physical and cultural heritage, including effects on things of archaeological, paleontological, or architectural significance;
- the current use of lands and resources for traditional purposes by aboriginal persons.

Environmental effects also include the effects of any changes to the project that may be caused by the environment.

In addition to the above factors, the comprehensive study must address

- the purpose of the project;
- alternative means of carrying out the project that are technically and economically feasible, as well as the environmental effects of any such alternative means;
- the need for, and the requirements of, any follow-up program;
- the capacity of renewable resources that are likely to be significantly affected by the project to meet present and future needs.

### *Alternatives*

*The Act distinguishes between "alternative means" and "alternatives to"*

*"Alternative means" of carrying out the project are methods of a similar technical character or methods that are functionally the same. "Alternative means" with respect to a nuclear power plant, for example, includes selecting a different location, building several smaller plants, and expanding an existing nuclear plant. "Alternative means" that are technically and economically feasible must be considered in a comprehensive study, mediation, and panel review, but are discretionary under a screening.*

*In contrast, "alternatives to" the project are functionally different ways of achieving the same end. For example, "alternatives to" the nuclear power plant include importing power, building a hydroelectric dam, conserving energy, and obtaining the energy through renewable sources. Consideration of "alternatives to" the project is at the discretion of the RA in screening, or of the Minister in consultation with the RA in a comprehensive study, mediation, or panel review.*

## **Review of the environmental assessment report**

The screening and comprehensive study tracks differ on the matter of mandatory review. In a screening, the RA has the option of allowing public review and comment on the screening report before making any decision on the project. In addition, it also may give expert federal departments an opportunity to review the report and other relevant documents.

When the comprehensive study report has been completed, however, the RA must submit it to the Agency for review and public comment. The Agency has several responsibilities relating to the review of the comprehensive study report, including

- ensuring that the report complies with the Act;
- ensuring opportunities are provided for the public to comment on the report;
- receiving and reviewing public comments that are forwarded to the Agency;
- making recommendations to the Minister based on its review of the report and the comments received from expert departments and the public.

The Agency will not normally subject the report to a rigorous scientific review.

Prior to the deadline set out in the public notice issued by the Agency, any person may file comments with the Agency about the conclusions, recommendations, and any other aspect of the comprehensive study report.

## **Decision by the responsible authority or Minister**

There is an important difference between the screening and comprehensive study in terms of who determines the next step in the EA process upon completion and review of the report.

When the screening report is completed, the RA must determine whether it may provide federal support to the project (that is, whether to grant the funds, licence, or interest in lands needed by the project). One of three decisions is possible:

- It may provide federal support if the project is not likely to cause significant adverse environmental effects, taking into account appropriate mitigation measures, if necessary.
- It must not provide federal support if the project is likely to cause significant adverse environmental effects that cannot be justified, taking into account appropriate mitigation measures.
- The RA will request that the Minister order a mediation or panel review of the project.



In the case of a comprehensive study, however, the Minister determines whether the project can be referred back to the RA for appropriate action, or whether further assessment is required by mediation or a panel review. The Minister

- refers the project back to the RA for appropriate action if
  - . the project is not likely to cause significant adverse environmental effects, taking into account appropriate mitigation measures, if necessary; or
  - . the project is likely to cause significant adverse environmental effects that cannot be justified, taking into account appropriate mitigation measures;

or

- orders a public review of the project through either mediation or a panel review when
  - . it is uncertain whether the project is likely to cause significant adverse environmental effects;
  - . the project is likely to cause significant adverse environmental effects and a determination must be made as to whether they are justified in the circumstances;
  - . public concerns warrant a public review.

From a practical perspective, the RA can ask the Minister to refer the project directly to a public review before the EA begins, or at any time before completion of the screening or comprehensive study, if it is clear that a public review will be necessary. For example, it may be apparent to all interested parties at the start that public concerns about the project are unlikely to be adequately addressed in a self-directed EA.

## **Summary of responsibilities**

The following summarizes the RA's responsibilities in a self-directed EA:

### ***Prior to screening or comprehensive study***

- determines, along with the Agency if necessary, the lead RA for projects with two or more RAs;
- establishes and maintains the public registry;
- must not provide any federal support to the project until completion of the EA;
- determines whether a previous EA was conducted with respect to the project.

### *Public concerns*

*At any time during a screening or comprehensive study, the RA may request that the Minister of the Environment refer the project to a review by mediator or panel. One key justification for such a request is the presence of public concerns. Depending on the nature of the project and the environmental setting, public concerns can be expressed in a wide range of ways. As a result, RAs should be aware of, and sensitive to, such questions as*

- *Who will be affected by the project?*
- *What are the views of these affected parties?*
- *Do they need more information about the project?*
- *How do they express themselves -- through the media, correspondence, community action, informal communication?*

### ***Screening and comprehensive study***

- determines the scope of the EA (that is the scope of the project and the scope of the assessment);
- ensures that a screening or comprehensive study is conducted on a project as early as is practicable in the planning stages and before irrevocable decisions are made (may delegate conduct of EA and preparation of report);
- ensures that a screening report or comprehensive study report is prepared;
- makes a determination on the impact of the project.

### ***Screening***

- may use or permit the use of all or part of any class screening report, ensuring that adjustments are made to take into account local circumstances and any cumulative environmental effects;
- determines whether public participation is appropriate and, if so, gives the public an opportunity to comment on the screening report;
- makes a determination about whether it may provide federal support to the project, based on the results of the screening report, and taking into account any comments from the public or expert departments.

### ***Comprehensive study***

- considers the need for and requirements of a follow-up program during the comprehensive study;
- submits the comprehensive study report to the Agency for review by the Agency and the public;
- if the Minister has referred the project back to the RA, makes a determination about whether it may provide federal support to the project.

### ***Following screening or comprehensive study***

- provides public notice of its course of action, taking into account any obligations under the *Official Languages Act*;
- ensures that, for any project that is proceeding, all appropriate mitigation measures are implemented;
- ensures that, if appropriate, a follow-up program is developed and implemented.

## **Public Review**

### **Need for a public review**

In a public review, members of the public are allowed to participate in the conduct of the EA. The Act provides three options for the public review of projects: mediation, panel review, or a combination of the two. The Minister of the Environment can order a public review at any time during a screening or comprehensive study. The RA may also request such a review from the Minister at any time.

Mediation and panel reviews are advisory, not decision-making procedures. The RA still determines whether it may provide federal support to the project.

A referral to a public review is made because

- it is uncertain whether the project is likely to cause significant adverse environmental effects;
- the project is likely to cause significant adverse environmental effects and a determination must be made on whether these effects are justified in the circumstances;
- public concerns about the project and its possible environmental effects warrant further investigation of the project.

A project can be referred to mediation or a panel review after a screening or comprehensive study, or at any time before completion of a screening or



comprehensive study (and, in practice, **before** the screening or comprehensive study actually begins, if it is clear from the outset that a public review will be necessary).

The Minister determines whether the project will proceed to mediation or a panel review.

Where mediation is inappropriate or unsuccessful, the EA review is conducted by an independent panel. In certain cases, a panel review may be conducted jointly with another jurisdiction.

### **Factors to be considered**

The Minister establishes the terms of reference for the mediator or panel review after consulting with the RA and other parties as appropriate. The factors that must be considered in a public review are the same as those for a comprehensive study. These are

- the purpose of the project;
- alternative means of carrying out the project that are technically and economically feasible, as well as the environmental effects of any such alternative means;
- the environmental effects of the project, including environmental effects of malfunctions or accidents that may occur in connection with the project, and any cumulative environmental effects that are likely to result from the project in combination with other projects or activities that have been or will be carried out;
- effects on the capacity of renewable resources that are likely to be significantly affected by the project to meet present and future needs.
- the significance of these environmental effects;
- public comments
- mitigation measures;
- the need for and the requirements of any follow-up program;
- any other matter relevant to the review, such as the need for and alternatives to the project, that the Minister or RA may require.

### **Mediation**

Mediation is a voluntary process of negotiation in which an independent and impartial mediator helps the interested parties resolve their issues. It is characterized by a non-adversarial, collaborative approach to solving problems and generating agreements where consensus is possible. It may also be used to identify and clarify issues where agreement is not possible.

In mediation, members of the public participate as representatives of interested

parties, along with representatives of the RA, the proponent, and other groups as appropriate. Meetings or hearings open to the general public, as are held in a panel review, usually are not part of a mediation.

Mediation is an appropriate choice whenever all of the interested parties have been identified and are willing to participate, and a consensus appears possible. It is particularly effective where there are a small number of interested parties and the environmental issues are limited in scope and number. It can be sensitive to local concerns and less costly than a panel review in terms of time and resources. Participants also gain a sense of having contributed to the resolution of a problem.

In this process, a mediator is appointed by the Minister after consulting with the RA and the other parties to the mediation. The mediator assists the participants in reaching a consensus, but does not make decisions for them.

Successful mediation reflects the following guiding principles:

- Participation must be voluntary, and participants must see the value of such an approach.
- All legitimate stakeholders must be allowed to participate.
- The mediator must be independent and impartial.
- The mediator must be acceptable to all the parties involved.

## **Panel review**

The fourth EA track established by the Act is an EA by an independent public review panel. The Minister appoints the panel and establishes its terms of reference after consulting with the RA. Where appropriate, a panel review may be conducted jointly with another jurisdiction.

Panel reviews are conducted in compliance with the Act and according to the following guiding principles:

- Information available to the panel is also made available to the public (with the exception of information that must remain confidential because of privacy or security concerns).
- Parties with a legitimate interest in the project are encouraged to participate.
- Panel reviews involve informal but structured meetings.

In conducting the public review, the panel must

- ensure that the information required for the EA is obtained and made available to the public;

- convene hearings in a manner that offers the public an opportunity to participate;
- prepare a report setting out the rationale, conclusions, and recommendations of the panel, including any mitigation measures and follow-up program, as well as a summary of comments received by the public;
- submit the report to the Minister and the RA.

## **Decision by the responsible authority**

When the report of the mediator or panel is completed, the RA must decide what action to take.

The RA may provide federal support to the project if the project is not likely to cause significant adverse environmental effects, taking into account appropriate mitigation measures, or if the project is likely to cause significant adverse environmental effects that can be justified in the circumstances.

Conversely, the RA may **not** provide federal support if the project is likely to cause significant adverse environmental effects that cannot be justified in the circumstances.

## **Summary of responsibilities**

The following summarizes the responsibilities of the RA in a public review:

### ***Prior to mediation or panel review***

- must not provide federal support to the project until completion of the EA;
- recommends to the Minister of the Environment whether mediation is appropriate;
- maintains the public registry for the project up to the time the project is referred to a mediator or panel and after the report of the mediator or panel is submitted to the Minister and RA, until the completion of any follow-up program.

### ***Mediation***

- advises the Minister on the terms of reference for the mediator;
- provides background information;
- participates in the mediation process.

### ***Panel review***

- advises the Minister on the panel's terms of reference;
- ensures, for any project referred to a panel, that an environmental impact



statement (EIS) is prepared in accordance with the guidelines established by the panel (if a screening report or comprehensive study report has not been prepared);

- ensures any information deficiencies in the EIS that are identified by the panel are addressed;
- participates in the panel's public hearings.

#### ***Following mediation or panel review***

- considers the report of the mediator or panel in reaching a decision about whether to provide federal support to the project;
- provides public notice of its course of action, including the extent to which the recommendations of the mediator or panel have been adopted;
- ensures that for any project that is proceeding, all appropriate mitigation measures are implemented;
- ensures that, when appropriate, a follow-up program is developed and implemented.

## **Working with Other Governments**

Some projects require authorization from both the federal government and a provincial or territorial government. Without close cooperation, a project might need to undergo separate EAs, resulting in unnecessary duplication, confusion, and excessive costs for all parties.

Harmonization of Canada's various EA processes is essential if the environmental effects of projects are to be assessed in an effective and consistent way across the country. Harmonization also helps create a more favourable atmosphere for private-sector decision-makers by streamlining regulatory approval processes and reducing planning uncertainties and delays.

Given the potential for overlapping EAs, the Act allows the Minister of the Environment to enter into agreements with provincial and territorial governments relating to the EA of projects where both governments have an interest.

The bilateral agreements provide guidelines for the roles and responsibilities of each government in the EA of such projects. The agreements cover cooperation in such areas as joint panels, mediation, screening, comprehensive studies, notification, cost-sharing, and time frames.

In 1992 the Canadian Council of Ministers of the Environment (CCME) approved the *Framework for Environmental Assessment Harmonization*. The framework serves as

the foundation for bilateral agreements. Governments committed themselves to establishing appropriate mechanisms for consultation and cooperation at every stage of an EA.

#### The framework

- confirms each government's jurisdictional responsibilities for EA;
- recognizes that federal, provincial, and territorial EA practices are consistent in principle and intent;
- acknowledges the need for clear and consistent rules that eliminate unnecessary duplication and are sensitive to the needs of proponents and to concerns for a timely and fair process;
- affirms the need for a "single-window" approach to EA that provides all proponents with the information they may require;
- establishes the mechanisms to allow for intergovernmental cooperation at all steps of the federal EA process.

The Canada-Alberta Agreement for Environmental Assessment Cooperation, the first bilateral agreement under the framework, includes provisions for

- early notification of projects of shared interest to allow for cooperative EAs;
- establishment of designated "single-window" offices in Alberta;
- coordination of decision-making by both parties with mutually agreeable time frames;
- guidelines for the establishment of joint review panels consistent with federal and provincial legal and operational requirements.

## **PART II: THE PRACTITIONER'S GUIDE**



## Part II: The Practitioner's Guide

### Purpose and Organization

The **Practitioner's Guide** provides detailed guidance on conducting environmental assessments in compliance with the *Canadian Environmental Assessment Act* (Act). It is written for practitioners who must prepare, review, or contribute to federal EAs. It focuses on the procedures for conducting an EA under the Act. It also provides, where appropriate, guidance on "how-to" techniques for conducting EAs.

The guide is organized into two chapters and a set of appendices:

**Chapter 1: The Self-Directed Environmental Assessment** is a detailed look at the procedures to follow in conducting a screening or comprehensive study in compliance with the Act.

**Chapter 2: The Public Review** provides an overview of the scope, nature, and procedures of mediation and panel reviews, focusing on the role and obligations of the responsible authority.

**Appendices** include the four key inclusion and exclusion lists for the Act, and will be provided when the Act and its regulations come into effect.

**CHAPTER 1**  
**THE SELF-DIRECTED**  
**ENVIRONMENTAL ASSESSMENT:**  
  
**SCREENING**  
**AND**  
**COMPREHENSIVE STUDY**



# Chapter 1: The Self-Directed Environmental Assessment: Screening and Comprehensive Study

## 1.1 The Self-directed Environmental Assessment

This chapter provides guidance on conducting a self-directed environmental assessment (EA) in the form of a screening or comprehensive study, in compliance with the *Canadian Environmental Assessment Act* (Act). It describes the obligations of the responsible authority (RA) at each step, and summarizes the roles and responsibilities of the major participants.

The majority of federal projects requiring an EA will undergo either a screening or comprehensive study. Both can be considered self-directed environmental assessments, in the sense that the RA determines the scope of the EA and the scope of the factors to be considered, directly manages the EA process, and ensures that the EA report is prepared. In practice, the project proponent may actually conduct the EA and prepare the report, but the RA alone remains directly responsible for ensuring that the screening or comprehensive study is carried out in compliance with the Act.

A self-directed EA usually consists of eight major steps (see Figure 1-1).

### 1.1.1 Screening

Most projects involving the federal government will be assessed through screening. Under the Act, screening is a systematic, documented assessment of the environmental effects of a proposed project. Screening will determine whether or not the RA may provide federal support for the project (that is, take action that enables the project to proceed). Specifically, screening will identify the need to

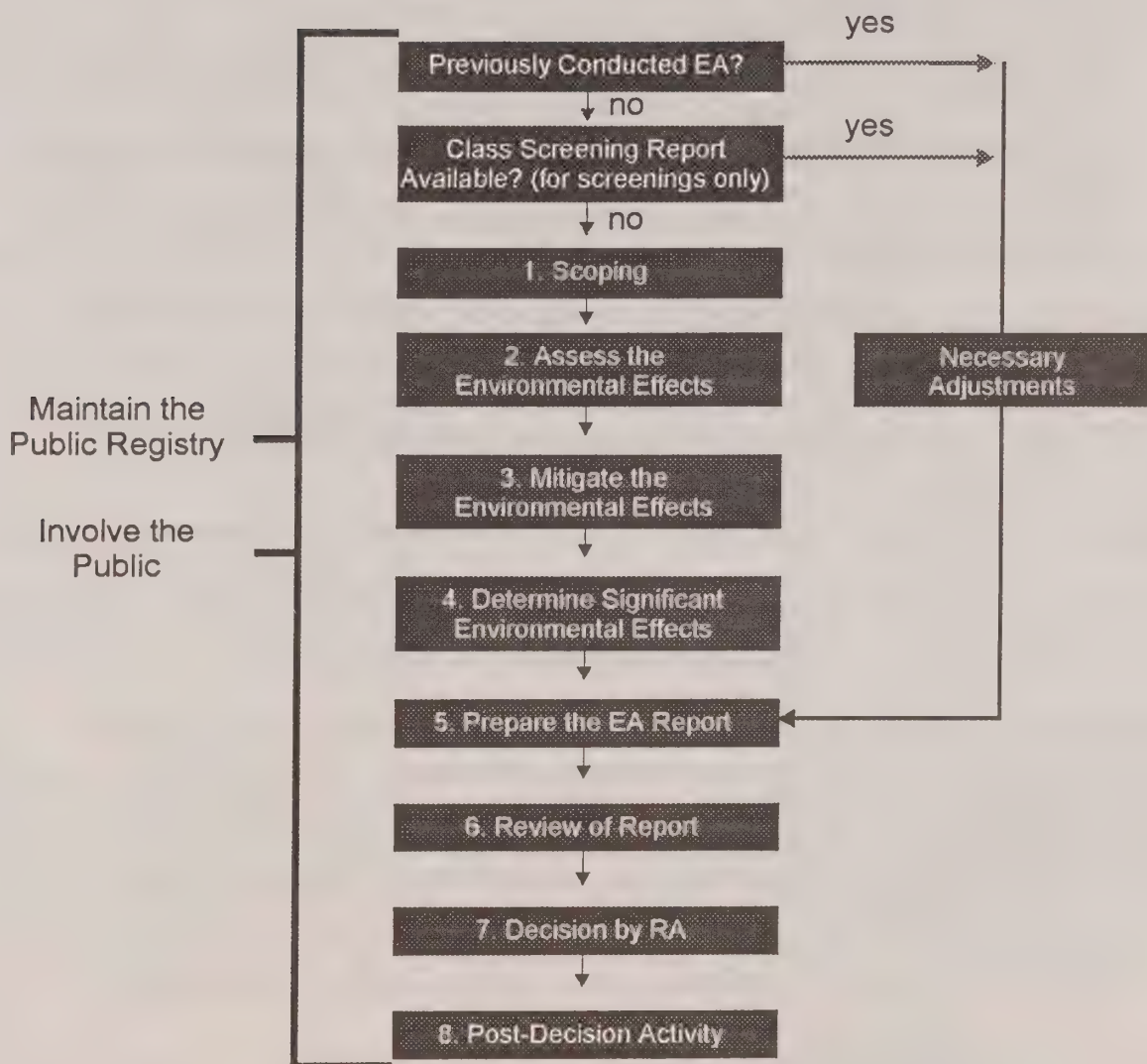
- mitigate environmental effects;
- modify the project plan;
- carry out further assessment of the environmental effects of the project through mediation or panel review.

RAs have considerable flexibility in conducting screenings. Screenings will vary in time, length, and depth of analysis, depending on the circumstances of the proposed project, the existing environment and the likely environmental effects. Some screenings may require only a brief review of the available information and a one- or two-page report; others may be as thorough and rigorous as a comprehensive study.



Figure 1-1:

### Key Steps of the Self-Directed Environmental Assessment



In a screening, the RA must

- determine the scope of the project, scope of the assessment, and scope of the factors to be considered;
- determine whether a project has already been assessed or whether a class screening report is available for the project;
- determine whether mitigation measures are required to eliminate or reduce significant environmental effects, and ensure implementation of these measures;
- determine whether the project is likely to cause any significant adverse environmental effects;
- ensure that a screening report is prepared;
- make a determination, based on the screening report's conclusions, about whether it may provide federal support to the project;
- maintain all publicly available documents related to the assessment in a public registry;
- monitor expressions of public concern about the project and, if appropriate, provide opportunities for public review and comment.

*By one measure, screening is the most important EA track under the Act. The majority of federal projects -- perhaps 95% or more -- can be expected to be assessed through a screening or class screening.*

#### *Different levels of screening*

*A screening is the most flexible EA track, accommodating a wide range of projects. A railway crossing, for example, may require only a simple screening without the involvement of outside experts, the public, or the Minister of the Environment. The RA for a proposed gold mine in an environmentally sensitive area may, on the other hand, decide that the assessment needs to*

- . consider the project's purpose and any alternative means of carrying out the project*
- . collect additional information*
- . involve the public and outside experts.*

### 1.1.2 Class screening

Under the Act, an RA can apply to the Agency to have a report (or reports) declared as a class screening report for future projects. A class screening report presents the accumulated knowledge about the environmental effects of a given class or type of project and identifies the known measures to mitigate those environmental effects.

A class screening report is considered acceptable for any class of projects where there is a sound knowledge of the environmental effects and appropriate mitigation measures, such as classes of projects that are routine and repetitive. In applying a class screening report to a project, however, the RA must still take into account site-specific circumstances and cumulative environmental effects.

Once approved by the Agency, a class screening report can be used by any RA as a model in conducting screenings of other projects within the same class.

*Examples of possible project classes  
for class screening declaration*

- *dredgings*
- *culvert installations*
- *highway maintenance*
- *rail-and-tie replacement*
- *shoreline stabilization*
- *building construction*

Federal authorities with specialist information and expertise have a special role to play in the preparation of a class screening report. Under the Act, expert departments must provide specialist information and expertise related to the class screening when requested by the RA. Expert federal authorities include Agriculture Canada, Department of Natural Resources Canada, Environment Canada, Fisheries and Oceans Canada, Health Canada, Heritage Canada, and Indian Affairs and Northern Development.

To ensure that all scientific or technical matters have been adequately addressed in the class screening report prior to submitting it to the Agency, the RA should make certain that all relevant expert federal departments have had an opportunity to provide specialist information or expertise, and comment on the draft class screening report, as appropriate.



The class screening report submitted to the Agency for review should include a record of consultation with the expert federal departments as well as a discussion of any unresolved scientific or technical concerns.

In seeking to designate a report (or reports) as a class screening report, the RA must provide the following information to the Agency:

- a description of the class of projects for which the declaration is sought;
- the potential environmental effects of the class of projects;
- the information required to conduct the screening, including necessary site- and situation-specific data;
- appropriate mitigation measures to eliminate or reduce adverse environmental effects that would normally be expected to occur;
- specific conditions under which a project of this class should undergo more detailed review;
- terms and conditions under which the project may proceed;
- documentation of a technical review by expert federal departments;
- any other information required by the Agency.

Having received the proposed class screening report from the RA, the Agency must make it available for public comment. The Agency must then consider any public comments received in determining whether to designate the report a class screening report.

A class screening report is not a substitute for an EA. It does not exempt the RA from the need to conduct a screening. The RA will still need to factor site-specific issues and cumulative environmental effects into the assessment, and will still need to prepare a screening report for the project. A class screening can greatly simplify and streamline the screening process, however. For example, a screening may be streamlined by using any or all of the descriptions in the class screening report such as the

- project's activities;
- type of information needed;
- environmental components to be addressed;
- nature of environmental effects;
- scope of issues to be considered; or
- mitigation measures.

If the project falls into a class but does not meet all the requirements outlined in the report (for example, a dredging project at a different location), further assessment will be needed. Studies may be required to take account of site-specific circumstances or cumulative effects, or to identify appropriate mitigation measures.

### 1.1.3 Comprehensive study

Although the majority of projects covered by the Act will undergo an EA through a screening, some projects will require a more intensive and rigorous assessment of their environmental effects through a comprehensive study. Conducting such a study may eliminate the need for further review by mediation or review panel.

The Comprehensive Study List, established by regulation, deals with those projects experience suggests have the potential to result in significant environmental effects no matter where they are located. Such projects tend to be large-scale and often generate considerable public concern. Examples include

- large oil and natural gas developments;
- major electrical generation projects;
- large mining projects;
- major pipelines;
- nuclear power facilities, including uranium mines;
- large industrial plants.

In a comprehensive study, the RA retains a primary management role over the EA, although it has more obligations than in a screening. These include the need to consider a wider range of factors, submit the comprehensive study report to the Agency and the public for review, take public comments into account, and look at the need for a follow-up program. In addition (as opposed to a screening), the Minister of the Environment is responsible for determining the next step in the EA process when the comprehensive study report has been completed.

Compared to projects that will undergo a screening, projects requiring a comprehensive study are generally large-scale, complex, and environmentally sensitive. The scope and depth of the analysis must be correspondingly greater as well, and will demand highly specialized skills and experience. There may be a need for

- gathering environmental baseline data;
- commissioning new studies on specific issues;
- considering highly technical, one-of-a-kind, site-specific mitigation measures;
- extensive public consultation.

### *Public concerns*

*Public concerns, if not addressed sufficiently in the screening or comprehensive study, can warrant a referral to a public review either through mediation or panel review. Public concerns can be expressed in many ways:*

- *correspondence and telephone calls to the Minister, local MPs, the Agency, or the department*
- *media coverage of public concerns*
- *community events, such as demonstrations or meetings about the project;*
- *formal interventions*
- *informal communication*

*RAs should not necessarily rely on numbers when judging the importance of public concerns. Even a few letters or calls may express public concerns, particularly if they are from people who will be most directly affected by a project.*

Again, as opposed to a screening, a comprehensive study involves the establishment of a working relationship between the RA and the Canadian Environmental Assessment Agency (CEAA/Agency). The Agency has a direct role to play in reviewing the comprehensive study report for procedural compliance with the Act, providing opportunities for public comments on the comprehensive study report, and advising the Minister of the Environment of the next steps in the EA process. Thus, the RA should keep the CEAA informed at all steps of the comprehensive study.

The Agency also provides procedural advice, and can use its independent position to help resolve disputes before they lead to delays in the assessment or necessitate a referral to a mediator or review panel.

As in the case of a class screening report, federal authorities with specialist information and expertise have a special role to play in a comprehensive study. Under the Act, expert departments must provide specialist information and expertise related to the project when requested by the RA.

To ensure that all scientific or technical matters have been adequately addressed in the comprehensive study report prior to submitting the report to the Agency, the RA should make certain that all relevant expert federal departments have provided specialist information or expertise, and have commented on the comprehensive study report, as appropriate.



The comprehensive study report submitted to the Agency for review should include a record of consultation with the expert federal departments as well as a discussion of any unresolved scientific or technical concerns.

If a project is undergoing a comprehensive study, then neither the RA nor any other federal authority may provide federal support to the project until the completion of the comprehensive study or subsequent public review.

## **1.2 Roles and Responsibilities**

Depending on the circumstances of the self-directed EA, there can be up to seven major participants in a screening or comprehensive study:

- the RA;
- the proponent;
- the Agency;
- the Minister;
- expert federal departments;
- other federal authorities;
- the public.

Tables 1-1 and 1-2 summarize the roles and responsibilities of these participants in a screening and comprehensive study, respectively.

**Table 1-1**  
**Roles and Responsibilities of Participants**  
**in a Screening**

The RA	<ul style="list-style-type: none"> <li>● determines whether project has been previously assessed;</li> <li>● ensures that a screening is conducted on a project not described on the Comprehensive Study List or Exclusion List as early as is practicable in the planning stages and before irrevocable decisions are made (may delegate conduct of EA and preparation of the report);</li> <li>● must not provide federal support to the project until completion of the EA;</li> <li>● determines the scope of the EA (that is, the scope of the project, the scope of the assessment, and the scope of the factors to be considered);</li> <li>● may use or permit the use of all or part of any class screening report, ensuring that adjustments are made to take into account local circumstances and any cumulative environmental effects;</li> <li>● determines whether public participation is appropriate and, if so, provides the public an opportunity to comment on the screening report;</li> <li>● establishes and maintains the public registry;</li> <li>● makes a determination on the impact of the project;</li> <li>● makes a decision, based on the results of the screening report and taking into account any public comments, about whether to provide federal support to the project;</li> <li>● provides public notice of its course of action;</li> <li>● ensures that for any project that is proceeding, all appropriate mitigation measures are implemented;</li> <li>● ensures that, if appropriate, a follow-up program is designed and implemented;</li> <li>● may request that the Minister refer the project for a public review through mediation or a panel review.</li> </ul>
The Proponent	<ul style="list-style-type: none"> <li>● prepares screening report and all other necessary documentation (if RA not proponent);</li> <li>● follows all conditions of licences imposed by the RA;</li> <li>● implements mitigation measures;</li> <li>● develops and implements a follow-up program, if appropriate.</li> </ul>

**Table 1-1**  
**Roles and Responsibilities of Participants**  
**in a Screening**  
**(cont'd)**

The Agency	●	provides procedural advice to RA as required;
	●	provides advice to the Minister if project is to be referred to a public review.
The Minister	●	refers a project to a public review at the request of the RA, or at own initiative.
Expert Federal Departments	●	make expert information or knowledge available upon request;
	●	review proposed class screening reports as appropriate for scientific and technical accuracy prior to the RA's submission of the report to the Agency.
Other Federal Authorities	●	may not provide federal support for a project where an RA has concluded that the project will cause significant adverse environmental effects that are not justified in the circumstances.
	●	comments on the class screening report;
The Public	●	comments on the screening report, if the RA determines that public participation is appropriate.
	●	



**Table 1-2**  
**Roles and Responsibilities of Participants**  
**in a Comprehensive Study**

The RA	<ul style="list-style-type: none"> <li>● determines whether project has been previously assessed;</li> <li>● ensures that a comprehensive study is conducted on a project described on the Comprehensive Study List as early as is practicable in the planning stages and before irrevocable decisions are made (may delegate conduct of study and preparation of the report);</li> <li>● must not provide federal support to the project until completion of the comprehensive study or public review.</li> <li>● determines the scope of the EA (that is, the scope of the project and the scope of the assessment);</li> <li>● ensures that all relevant federal expert departments have been consulted;</li> <li>● provides an opportunity for public consultation during preparation of the report, if appropriate;</li> <li>● ensures that a comprehensive study report is prepared (or prepares the report, if RA is the proponent);</li> <li>● establishes and maintains the public registry;</li> <li>● makes a determination on the impact of the project;</li> <li>● submits the comprehensive study report to the Agency for review by the Agency and the public;</li> <li>● in the case of a project referred back by the Minister, makes a decision about whether to provide federal support to the project, based on the results of the comprehensive study report and taking into account any public comments;</li> <li>● provides public notice of its course of action;</li> <li>● ensures that for any project that is proceeding, all appropriate mitigation measures are implemented;</li> <li>● ensures that, when appropriate, a follow-up program is developed and implemented;</li> <li>● may request that the Minister refer the project for a public review through mediation or a panel review.</li> </ul>
The Proponent	<ul style="list-style-type: none"> <li>● prepares comprehensive study report and all other necessary documentation (if RA not proponent);</li> <li>● follows all conditions of licences imposed by the RA;</li> <li>● implements mitigation measures;</li> <li>● designs and implements a follow-up program, if appropriate.</li> </ul>

**Table 1-2**  
**Roles and Responsibilities of Participants**  
**in a Comprehensive Study**  
**(cont'd)**

The Agency	<ul style="list-style-type: none"> <li>● provides procedural advice to RAs, as appropriate;</li> <li>● provides public notice of the availability of the comprehensive study report to facilitate public comment;</li> <li>● reviews the comprehensive study from a procedural perspective;</li> <li>● provides recommendations to the Minister about the next step in the EA process, taking into account the report and comments from the public and expert federal departments.</li> </ul>
The Minister	<ul style="list-style-type: none"> <li>● refers the project either back to the RA for action or to a public review in the form of mediation or panel review, taking into consideration the comprehensive study report and any public comments received;</li> <li>● may refer the project to a public review at any time at the request of the RA or at own initiative.</li> </ul>
Expert Federal Departments	<ul style="list-style-type: none"> <li>● make expert information or knowledge available upon request;</li> <li>● review comprehensive study report as appropriate for scientific and technical accuracy prior to the RA's submission of the report to the Agency.</li> </ul>
Other Federal Authorities	<ul style="list-style-type: none"> <li>● must not provide federal support to the project until the comprehensive study or public review is completed;</li> <li>● may not provide any support for a project where an RA has concluded that the project will cause significant adverse environmental effects that are not justified in the circumstances.</li> </ul>
The Public	<ul style="list-style-type: none"> <li>● provides input and comments during preparation of the comprehensive study report, if the RA has implemented a public involvement program;</li> <li>● comments on the comprehensive study report after report submitted to the Agency.</li> </ul>

## 1.3 Start-up

Before starting a self-directed EA, an RA must address five key questions:

- Does the Act apply to its project?
- Should the project undergo a screening or comprehensive study?
- Has a public registry been established for the project?
- Is the project likely to cause public concerns?
- Is the EA of the project covered by an agreement with another government?

This section reviews each of these questions as they apply to a screening and comprehensive study.

### 1.3.1 Does the Act apply?

To determine whether the Act applies, the RA must determine that the proposal

- is a "project" for the purposes of the Act;
- is not excluded by the Act or by a regulation under the Act;
- involves a federal authority;
- involves an action that triggers the need for an EA under the Act.

See Figure 1-2 for a summary.

#### Is the proposal a "project" according to the Act?

Figure 1-3 summarizes the decisions required in determining whether the RA has a project as defined in the Act.

A project can be either

- an undertaking in relation to a physical work, such as any proposed construction, operation, modification, decommissioning, or abandonment; or
- any proposed physical activity not relating to a physical work that is set out in the regulations to the Act.



Figure 1-2:

## Does the Act Apply?

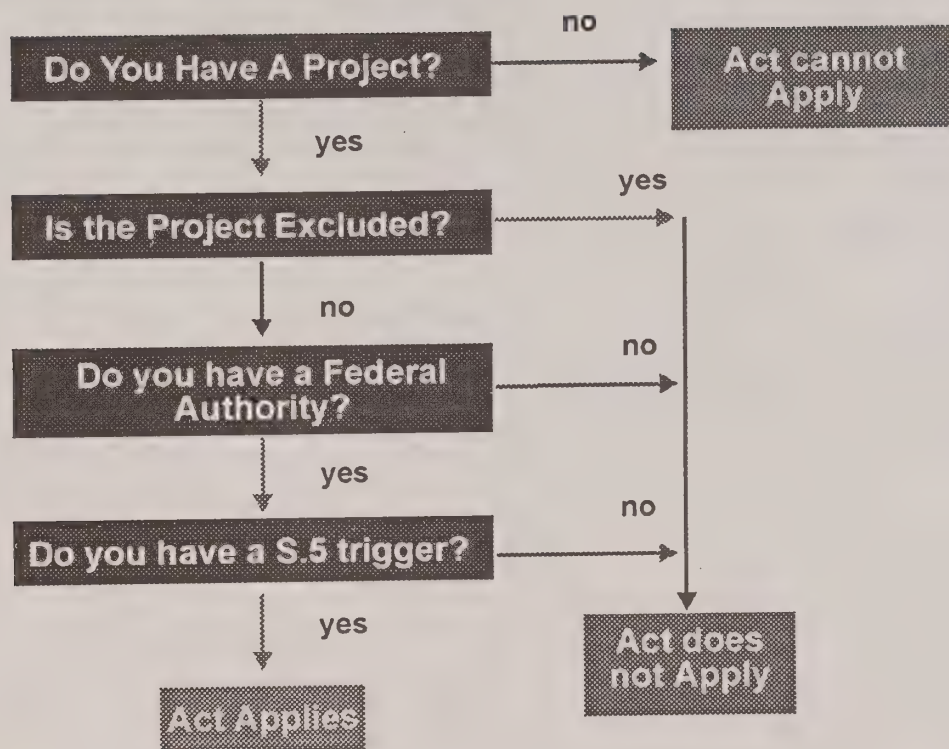
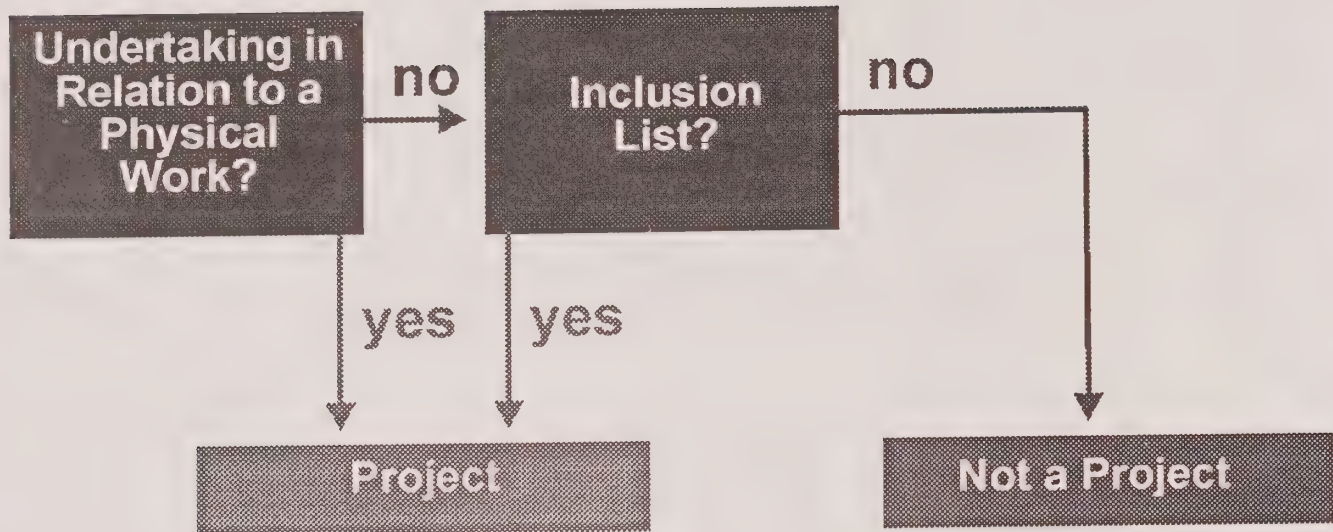


Figure 1-3:

Is the Proposal a "Project"  
under the Act?



The first category covers most projects. The second category is designed to bring into the EA process certain activities that could result in significant adverse environmental effects. A proposed physical activity will fall under the Act only if it is described on the Inclusion List (Appendix C; in preparation) prepared under the regulations to the Act.

#### *Examples of project definition*

##### *Undertakings in relation to a physical work*

- *dredging as part of constructing a bridge*
- *construction of a fish ladder*

##### *Physical activities not relating to a physical work*

- *the movement of CFCs out of Canada*
- *the harvesting of marine plants in coastal waters*
- *low-level flying over the back country of a National Park*
- *ocean dumping of substances prescribed by the Canadian Environmental Protection Act*

#### *Is the project excluded?*

A project may be excluded from the need to undergo an EA under the Act when it is

- carried out in response to a national emergency for which special temporary measures are being taken under the *Emergencies Act*;
- carried out in response to an emergency and carrying out the project is in the interest of preventing damage to property or the environment or is in the interest of public health or safety;
- carried out for national security reasons;
- described on the Exclusion List, which are undertakings in relation to a physical work considered to have an insignificant impact on the environment, such as simple renovations and routine operations.

#### *Does the project involve a federal authority?*

An EA under the Act must be triggered by an action of a federal authority. A federal authority is

- a federal Minister of the Crown;
- an agency or other body of the federal government that is ultimately accountable to Parliament through a federal Minister of the Crown;



- any federal department or departmental corporations set out in Schedule I or II to the *Financial Administration Act*;
- any other body prescribed in the regulations to the Act.

The following are not federal authorities under the Act:

- the governments of the Yukon or Northwest Territories;
- a council or band under the Indian Act;
- certain harbour commissions;
- Crown corporations within the meaning of the *Financial Administration Act*.

### ***Does the project involve an action that triggers the need for an EA?***

An EA is required before a federal authority exercises one or more of the following duties, powers or functions in relation to a project:

- proposes a project;
- grants money or other financial assistance to a project;
- grants an interest in land to enable a project to be carried out (that is, sells, leases, or otherwise transfers control of land); or
- exercises a regulatory duty in relation to a project, such as issuing a permit or licence, that is covered under the Law List Regulation.

The EA must be completed before the federal authority exercises any of these powers, duties, or functions.

Not every federal licensing or permitting action relates to projects that may cause environmental effects, however. Therefore, only those regulatory duties covered under the Law List will be considered as federal triggers for an EA.

With respect to the second factor, if a federal authority or the Government of Canada enters into an agreement with a province to provide financial support and the essential details of the project are **not** specified at that time, the federal authority or the Government of Canada must ensure that the agreement provides for an EA of that project as early as possible in the planning stage and before any irrevocable decisions are made.

If the agreement is with a foreign government (for projects to be carried out both outside Canada and outside federal lands), the same conditions apply in so far as is practicable and subject to any other agreements to which the Government of Canada or the federal authority is party.

If the essential details of the project **are** known, or will be known before the federal authority provides financial support, the federal authority must conduct the EA before such support is given.

In addition to the four triggering factors listed above, the Act also applies in the following special case: When the Governor in Council is responsible for issuing a licence or other authorization listed on the Law List that would allow a project to proceed, an EA must be conducted before that decision is taken. The federal authority recommending that the Governor in Council take action with respect to a project must ensure an EA is done early in the planning stages and before irrevocable decisions are made. This federal authority has the same duties as an RA, except for the responsibility for making a decision with respect to the project.

### ***Is the project likely to involve transboundary effects?***

The transboundary provisions of the Act give the Minister of the Environment the authority to refer a project directly to a mediator or panel, if the Minister believes that the project may cause significant adverse transboundary environmental effects in cases when the project would otherwise not require an EA, and no other federal Act or regulations apply.

Transboundary effects under the Act refer to adverse effects that are likely to occur

- on federal lands because of projects carried out outside these lands;
- off federal lands (because of projects carried out on these lands);
- across provincial boundaries; or
- across international boundaries.

Special EA procedures may be required if a project is likely to have significant adverse environmental effects across Canada's international boundaries. Canada is a signatory to the *Convention on Environmental Assessment in a Transboundary Context*. The Convention seeks to ensure that countries take measures to prevent, reduce, and control significant adverse transboundary environmental effects from proposed activities. Signatory countries must

- notify an affected country of any proposed activities likely to cause a significant adverse transboundary impact (guidelines are listed in the Convention);
- provide information on the project to the affected country;
- allow the public in the affected country an opportunity to comment on the proposed project, if requested to do so;
- conduct an EA of the project before making any decision on providing federal support to the project;
- inform the affected country of its decision on the project.

There is a need to ensure that projects with possible significant transboundary impacts are assessed according to the requirements of the Convention while avoiding unnecessary duplication, delays, and confusion that could arise from separate assessments. Under the **Framework for Environmental Assessment Harmonization**, adopted by the Canadian Council of Ministers of the Environment in November 1992, federal, provincial and territorial governments agreed to adhere to the provisions of the Convention. Bilateral Agreements for Environmental Assessment Cooperation, under the harmonization framework, will establish the broader principles and context for coordination and cooperation on environmental assessment. Specific procedures related to the assessment of transboundary impacts under the Convention will be established through subsidiary agreements to the bilateral harmonization agreements.

For more information on Canada's obligations under the Convention, RAs should contact the Agency.

### ***Has the project been previously assessed?***

When a proponent proposes to carry out all or part of a project for which a screening or comprehensive study has already been conducted, it can use that previous EA to an appropriate extent when

- the project did not proceed after the EA was completed;
- in the case of a project that is in relation to a physical work, the proponent proposes an undertaking in relation to that work different from that proposed when the EA was conducted;
- the manner in which the project is to be carried out has subsequently changed; or
- the renewal of a licence, permit, approval, or other action under a prescribed provision is sought.

The RA must ensure, however, that adjustments are made in its screening report or comprehensive study report to take into account any significant changes in the environment, including cumulative environmental effects, and in the circumstances of the project since the previous EA was conducted.

### ***More than one RA***

The same project may have two or more RAs. To ensure that only one EA is conducted for each project, rather than each RA conducting its own EA, one of the RAs could be designated as the lead RA, or the RAs could coordinate their assessment in a team or working group structure.



### 1.3.2 Selecting the environmental assessment track

Once the RA has determined that the Act applies to its project, it must then determine which EA track must be followed. In most cases, the EA will be conducted through either a screening or a comprehensive study. If further investigation is needed, the project will be subjected to a public review in the form of a mediation or panel review (see Figure 1-4).

The project will undergo a screening when it

- is not on the Comprehensive Study List regulation;
- has not been previously assessed; and
- has not been referred directly to a mediation or panel review.

Most projects will fall into this category.

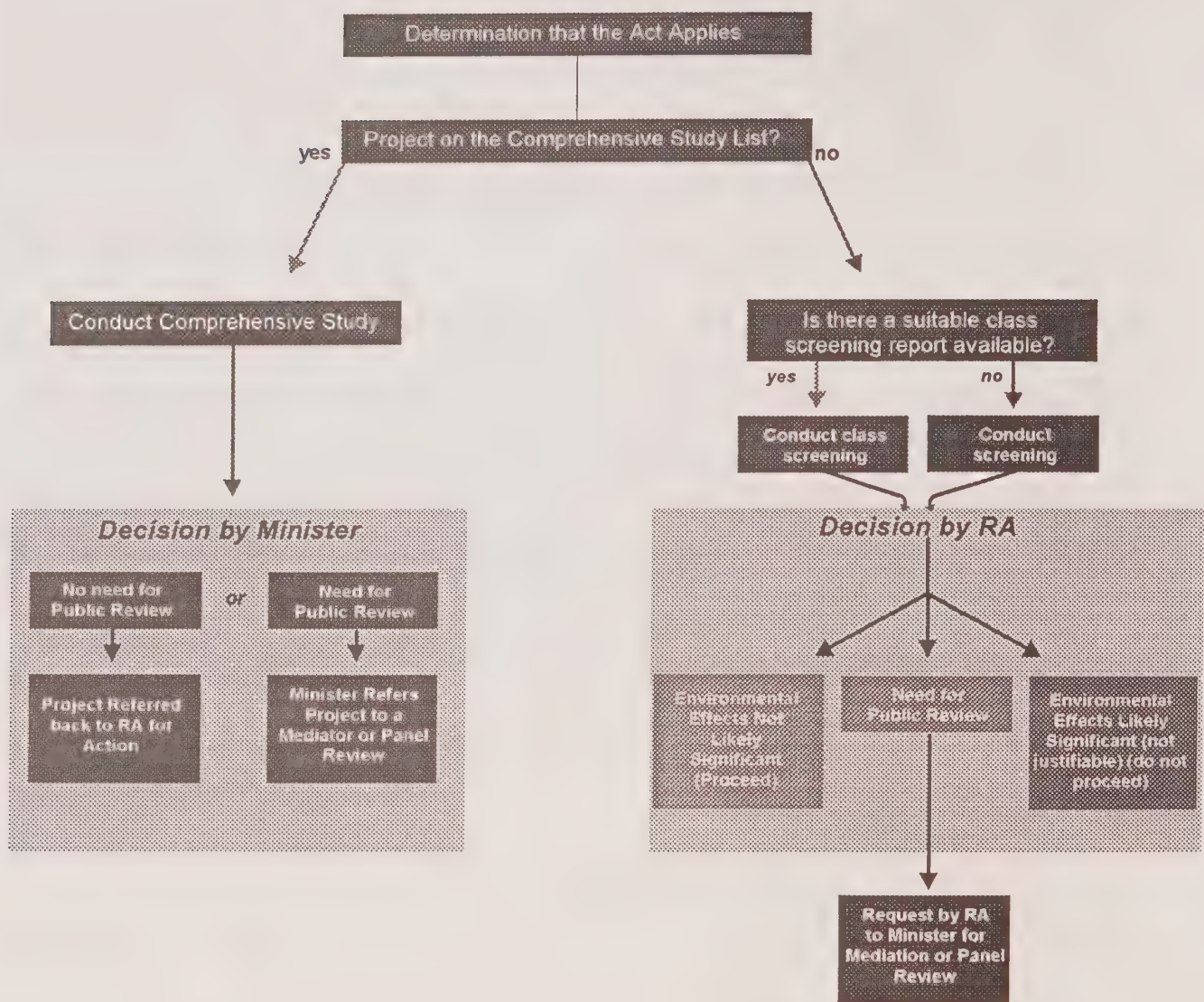
All or part of a class screening report may be used when the project

- is of a class of projects for which a class screening report has been designated by the Agency;
- is not on the Comprehensive Study List regulation; and
- has not been referred directly to a mediation or panel review.

The project will undergo a comprehensive study when it

- is on the Comprehensive Study List regulation; and
- has not been referred directly to a mediation or panel review.

Figure 1-4: Determining the EA Track



### 1.3.3 The public registry

The Act is based, in large part, on the principle of public participation. To help realize this objective, public access to information upon which EAs are based is provided through a public registry.

#### *Obligations*

The Act imposes two main obligations on RAs with respect to the public registry:

- to establish a public registry for the purpose of facilitating public access to the records relating to EAs;
- to operate such a registry in a manner to ensure convenient public access.

A public registry must be maintained in respect of every project for which an EA is conducted, regardless of whether the project undergoes a screening, comprehensive study, panel review, or mediation.

#### *Organization*

The Agency has established a public registry framework within which all RAs can function. The framework seeks to provide all Canadians convenient access to complete information about EAs carried out under the Act. It will also ensure consistency across the federal government, and assist RAs in meeting their public registry obligations in an efficient and convenient manner.

The framework consists of three components:

- **The Federal EA Index**

The Federal EA Index is an electronic listing of all EAs conducted by all RAs under the Act. The index provides "one-window" access to information on the who, what, when, where, and why of any EA conducted under the Act, regardless of the RA. It also directs the public to contacts and document listings related to specific EAs.

- **RA document listings**

The second component of the public registry system is the listing of all publicly available documents relating to each EA. The RA maintains such a listing (in electronic or hardcopy form) for each of its respective EAs. The RA has three key responsibilities with respect to its listings:

- . determining whether each document should be placed in the public registry;
- . maintaining a current list of documents for all active EAs;
- . ensuring the document listing is available to the public upon request.



- **EA documents**

The third component of the public registry system consists of the EA documents produced by, collected by, or submitted to the RA with respect to an EA. Key issues are

- . responding to requests in a timely manner;
- . determining the need to translate documents into the other official language;
- . applying cost recovery guidelines, when applicable.

### *Benefits*

The public registry system provides several important benefits to RAs:

- The framework allows all RAs to meet their registry obligations in a consistent, cost-effective manner that ensures convenient, low, or no-cost public access to information.
- RAs do not have to develop their own procedures for operating the public registry.
- RA tasks are streamlined so as to minimize workload requirements.
- Many of the tasks build on current practices so as to minimize costs and workload requirements for RAs.
- Procedures make practical and effective use of technology whenever possible, further reducing the RA's workload and costs.

"The Public Registry" reference guide in Part III of the guide provides details on the organization of the public registry system, as well as guidelines in five key areas:

- coordination with other RAs;
- document clearing;
- responding to requests;
- cost recovery;
- official language considerations.

### **1.3.4 Public concerns**

Public concerns play an important role at all steps of the self-directed EA.

At any time before completion of the screening or comprehensive study -- or even before the EA begins -- the RA can ask the Minister of the Environment to refer the project directly to a public review if it is clear that public concerns about the project's environmental effects are unlikely to be adequately addressed in a self-directed EA.

Public concerns, if not resolved through public involvement in a self-directed EA, can also warrant a public review by a mediator or review panel. The RA (following completion of the screening report) or Minister (following a comprehensive study report) must explicitly address the question of whether there are public concerns about the project that justify a public review.

Given the importance of public concerns, the RA should try to be aware of them and respond to them from the outset of a self-directed EA.

The public is not a single entity, but rather comprises varied interests: local residents, local environmental groups, small-business owners, and many others. Public concerns can be expressed in several ways, as well.

The public can also be a valuable source of information to the RA. Local community residents and indigenous peoples can provide critical information at all steps of an EA. Public input will also be appropriate when there are public concerns about a proposed project, and when the RA needs to build a consensus among different groups. Thus, the RA should determine as early as possible when and to what extent public input should be sought.

A public involvement program goes beyond allowing the public to comment on a completed screening report or comprehensive study report. Rather, it seeks to provide the public with a variety of opportunities to be informed at all stages of the EA, to offer ideas and information, to react to proposals in order to influence recommendations and decisions, and to be informed of all decisions.

Communication needs will change over the course of a screening or comprehensive study. The RA (or proponent) may need to

- provide information so that people can be informed and participate effectively;
- receive information and comments from the public;
- discuss issues and clarify positions and concerns;
- build consensus among key groups or individuals particularly affected by the project; or
- inform participants of results or decisions.

A wide range of public involvement activities can meet these changing needs. For more information on developing an effective public involvement program, review the reference guide "Public Involvement" (in preparation) in Part III.

### *Who is the public?*

*The public represents a complex mix of interests. RAs should be aware of the range of public interests in the region or community affected by the project. These could include*

- *residents living near the project*
- *aboriginal persons*
- *local and regional government officials*
- *community organizations, such as homeowner groups, senior citizen organizations, service clubs and environmental groups*
- *professional and business associations*
- *small-business operators*
- *educational institutions*
- *public-interest groups*
- *the media*

### **Screening**

Public involvement is discretionary in a screening. When the RA believes that public involvement in the screening is appropriate, it should provide the public with an opportunity to examine and comment on the screening report before making any decision on whether to provide federal support to the project. It may also choose to provide opportunities for public involvement during the screening, before the preparation of the screening report.

In addition, the public will be given an opportunity to review and comment on all proposed class screening reports.

### **Comprehensive study**

From a practical perspective, public input is an essential component of a comprehensive study. The RA's task is to determine the most effective approach to ensuring public involvement in the EA. Public input can be sought at any step in the comprehensive study process: from scoping issues, collecting data, assessing environmental effects, and identifying mitigation measures, to commenting on a draft report, and participating in a follow-up program. An effective public involvement program identifies and links these opportunities so as to meet the overall needs of the comprehensive study.



Upon receiving the comprehensive study report from the RA, the Agency will publish a public notice about the opportunity to review and comment on the report. Any person may file comments with the Agency within the specified time period. The scope for public comment is broad, and can cover the conclusions, recommendations and other aspects of the report. These comments will be considered by the Minister in arriving at a decision about the need for a public review.

### **1.3.5 Working with other governments**

A key question of the start-up stage is to identify whether the EA of the project is covered by an EA harmonization agreement between the federal government and a province or territory.

Some projects require authorization from both the federal government and a provincial or territorial government. Without close cooperation, a project might need to undergo separate EAs, resulting in unnecessary duplication, confusion, and excessive costs for all parties.

Harmonization of Canada's various EA processes is essential if the environmental effects of projects are to be assessed in an effective and consistent way across the country. Harmonization also helps create a more favourable atmosphere for private-sector decision-makers by streamlining regulatory approval processes and reducing planning uncertainties and delays.

Given the potential for overlapping EAs, the Act allows the Minister of the Environment to enter into agreements with provincial and territorial governments relating to the EA of projects where both governments have an interest.

The bilateral agreements provide guidelines for the roles and responsibilities of each government in the EA of such projects. The agreements cover cooperation in such areas as joint panels, mediation, screening, comprehensive studies, notification, cost-sharing, and time frames.

In 1992 the Canadian Council of Ministers of the Environment (CCME) approved the *Framework for Environmental Assessment Harmonization*. The framework serves as the foundation for bilateral agreements. Governments committed themselves to establishing appropriate mechanisms for consultation and cooperation at every stage of an EA.

The framework

- confirms each government's jurisdictional responsibilities for EA;
- recognizes that federal, provincial, and territorial EA practices are consistent in

- principle and intent;
- acknowledges the need for clear and consistent rules that eliminate unnecessary duplication and are sensitive to the needs of proponents and to concerns for a timely and fair process;
- affirms the need for a "single-window" approach to EA that provides all proponents with the information they may require;
- establishes the mechanisms to allow for intergovernmental cooperation at all steps of the federal EA process.

The Canada-Alberta Agreement for Environmental Assessment Cooperation, the first bilateral agreement under the framework, includes provisions for

- early notification of projects of shared interest to allow for cooperative EAs;
- establishment of designated "single-window" offices in Alberta;
- coordination of decision-making by both parties with mutually agreeable time frames;
- guidelines for the establishment of joint review panels consistent with federal and provincial legal and operational requirements.

## **1.4 Step 1: Scoping**

In the first step of a self-directed EA, the RA should establish the boundaries of the screening or comprehensive study, and focus the analysis on directly relevant issues and concerns. Scoping can reduce delays, improve the quality of the EA, and enhance its credibility by involving all interested parties.

It is assumed here that the RA itself is conducting the EA. In many cases, of course, the proponent will conduct the EA. Although the RA can delegate the preparation of the screening report or comprehensive study report to the proponent or a consultant, it alone is responsible for ensuring that the EA is conducted in compliance with the Act, and it alone can make a decision on the course of action with respect to the project following the screening or comprehensive study.

### **1.4.1 Scope of the environmental assessment**

The scope of the project and the scope of the assessment define the components of a proposed development and the environmental effects that should be included in an EA conducted under the Act.

#### ***Scope of the project***

Under the Act, the RA must determine the scope of the project in a screening or comprehensive study. The scope of the project refers to those components of the

proposed development that should be considered part of the project for the purposes of the EA.

In determining the scope of the project, therefore, the RA must consider:

- . which physical works fall within the scope of the project, and which undertakings in relation to those physical works fall within the scope of the project;
- or
- . which physical activities not in relation to a physical work (identified in the Inclusion List regulation) fall within the scope of the project.

### *The "principal project/accessory" test*

The Act does not provide direction to RAs in determining which physical works should be included within the scope of a project. To ensure consistency in scope of the project determinations, RAs should consider applying the "principal project/accessory" test. This test consists of two steps.

First, what is the principal project? The principal project is always either the undertaking in relation to a physical work or the physical activity for which a power, duty, or function is being exercised (therefore triggering the need for an EA under the Act). The principal project must always be included as part of the scoped project.

Second, are other physical works or physical activities accessory to the principal project? If so, then these may be included as part of the scoped project. Those physical works or physical activities not accessory to the principal project may not be included as part of the scoped project. To determine what is accessory to the principal project, the RA should apply the following two criteria:

- . **interdependence:** If the principal project could not proceed without the undertaking of another physical work or activity, then that other physical work or activity may be considered as a component of the scoped project.
- . **linkage:** If the decision to undertake the principal project makes the decision to undertake another physical work or activity inevitable, then that other physical work or activity may be considered as a component of the scoped project.

### *Same EA for related projects*

Under the Act, the RA can combine two or more triggered projects into the same EA if it determines that the projects are so closely related that they can be considered to form a single project.



In making this determination, RAs should apply the following three criteria:

- . **interdependence:** If the principal project could not proceed without the undertaking of another project, the two may be considered to form a single project.
- . **linkage:** If the decision to undertake the principal project makes the decision to undertake another project inevitable, the two may be considered to form a single project.
- . **proximity:** If the geographic study areas developed in relation to the scope of the assessment for the individual projects overlap, the two may be considered to form a single project.

Not all criteria must be met in every case. Each case must be considered on its own merit. However, the **proximity** criterion on its own will rarely be sufficient cause for the RA to combine two or more projects into the same EA.

### *Undertakings in relation to a physical work*

Finally, under the Act, the RA must include in the EA all undertakings or activities in relation to a physical work, and all activities in relation to a physical work that are proposed or, in its opinion, are likely to be carried out. These undertakings could include, for example, the construction, operation, modification, decommissioning, or abandonment of a physical work. Such proposed undertakings or undertakings that are likely to be carried out must be included in the scope of the project even if there is no specific trigger for them. The assessment of all proposed undertakings or undertakings that are likely to be carried out in relation to a physical work should be conducted as early in the planning stages of the physical work as is practicable.

(Note that this applies only to undertakings in relation to a physical work and not to physical activities.)

### *Scope of the assessment*

Once the RA has determined the scope of the project, it must then address the question of the scope of assessment. The scope of assessment includes a determination of the environmental effects to be addressed, the scope of the environmental effects to be assessed, and the effects to be considered in making decisions regarding the project.

### *Effects to be assessed*

An RA exercising any power, duty or function under section 5 of the Act must include in the assessment all factors that are relevant to the decision that the RA must make:

- all the factors that the Act requires an RA to consider, including all effects that fall within the Act's definition of "environmental effect", regardless of whether the effect falls within an area of federal jurisdiction. Section 1.4.2 below, addresses the statutory provisions in the Act for the scoping of environmental effects in greater detail.

and

- any factors that are relevant to the assessment of effects of the project in the environment that any other federal law or regulation require or permit the RA to consider. Where the RA is acting as a regulator this includes the factors that the law creating the RA's decision-making authority states must or may be considered.

Additionally, where the RA is:

- the project proponent;
- asked to provide financial assistance; or
- asked to sell, lease or transfer its interest in lands;

it may also assess beyond the statutory requirements to the extent that it considers necessary in the circumstances. The RA may broaden the scope of assessment for these decisions because they relate to the operation of the Government itself or its property; matters which are within exclusive federal jurisdiction.

#### *Effects to be considered in making decisions*

If a factor is considered relevant to the decision that the RA must make (see "Effects to be Assessed" above), the RA must take it into account in making its decision whether to provide federal support for a project.

#### *Attaching conditions*

Where the RA is

- the project proponent;
- asked to provide financial assistance; or
- asked to sell, lease or transfer its interest in lands

it may attach any condition or require any mitigation measure it considers appropriate in the circumstances. Where the RA takes a regulatory action that supports the project (that is, where the RA decides to issue an authorization under a statutory or regulatory provision on the Law List regulation), the conditions it attaches to the approval must pertain to the factors which are relevant to its decision:

- the factors that the Act requires the RA to consider, and
- any factors that the RA must or may consider pursuant to the triggered federal law or regulation.

This analysis is based on recent decisions of the Supreme Court of Canada relating to the permitted scope of assessment under the EARP Guidelines Order. However, it is expected that the principles enunciated by the Court with respect to the Order will apply to the Act as well.

*Scope of the Assessment for  
EA Triggered by Federal Permit Decision*

*Project:*

- . *Construction of a pulp-and-paper mill to be situated on a navigable river in the Yukon Territory*
- . *As part of the mill, construction of:*
  - . *intake and outflow pipes to be installed in the river for the purposes of supplying water and removing process wastes from the mill*
  - . *new access road*
  - . *new dedicated waste storage facilities*
  - . *construction camp*

*EA Trigger:*

- . *Licence under section 5 of the Navigable Waters Protection Act (NWPA) for intake and outflow pipes*
- . *Licence under subsection 14(1) of the Yukon Waters Act (YWA) for water use*

*Scope of the assessment:*

- . *As a minimum, EA must include consideration of environmental effects as defined in the Act for a comprehensive study (project subject to the comprehensive study list regulation)*
- . *Scope of assessment can also be broadened through powers given to Minister of Transport under the NWPA and the Yukon Water Board under the YWA. For example, the Minister of Transport could decide to include the effects of changes in water levels, flow rates, and obstructions in navigable waters (such as adverse effects on wildlife habitat as a result of changes in water levels). The Yukon Water Board must assess the effects of the mill's water uses on other water uses. These effects may be strictly economic and include the potential economic losses to individuals already using the water.*



*Scope of Project for  
EA Triggered by Federal Funding*

*Project:*

- . *Construction of an oil refinery in southern Saskatchewan by an oil company*
- . *An extension of a pipeline is required to the new refinery.*

*EA Trigger:*

- . *Funding contribution from Natural Resources Canada.*

*Scope of the project:*

- (i) *Principal project:*
  - . *construction of oil refinery*
- (ii) *Accessory physical works:*
  - . *under the linkage principle, the construction of the pipeline can be considered an accessory work of the construction of the refinery*
- (iii) *Other undertakings in relation to the physical work:*
  - . *operation, planned modifications, and decommissioning of refinery*
  - . *operation of pipeline*

*Scope of Project for  
Two Related Projects*

*Projects:*

- . *Construction of an oil refinery in southern Saskatchewan by an oil company; and*
- . *Extension of a pipeline to the new refinery*

*EA Triggers:*

- . *Funding contribution from Natural Resources Canada; and*
- . *Permit for construction of pipeline*

*Scope of the project:*

- (i) *Principal project:*
  - . *principles of linkage and proximity apply to the two projects*
  - . *construction of the two can be considered so closely related that they can be considered to form a single project*
  - . *that is, principal project is construction of oil refinery and construction of pipeline*
- (ii) *Accessory physical works:*
  - . *none*
- (iii) *Other undertakings in relation to the physical work:*
  - . *operation, planned modifications, and decommissioning of refinery*
  - . *operation of pipeline*

*Scope of Project for  
Physical Activity on Inclusion List*

*Project:*

- . *Dredging operation on federally-owned canal*
- . *Temporary access road across a field is required to move the dredge material to an existing privately-owned disposal area*

*EA Trigger:*

- . *Permit for dredging*

*Scope of the project:*

- (i) *Principal project:*
  - . *dredging operation*
- (ii) *Accessory physical works:*
  - . *principle of interdependence can be applied to the dredging and access road*
  - . *thus, construction of the access road can be considered as an accessory work*
- (iii) *Other undertakings in relation to the physical work:*
  - . *not applicable to Inclusion List activities*
  - . *thus, consideration of the operation and closure of the disposal site and road are not required*

*Scope of Assessment for  
EA Triggered by Federal Funding*

*Project:*

- . *Construction of an oil refinery in southern Saskatchewan by an oil company; an extension of a pipeline is required to the new refinery*
- . *Proposed site is adjacent to an deer breeding ground and a migratory bird sanctuary*

*EA Trigger:*

- . *Funding contribution from Natural Resources Canada*

*Scope of the assessment:*

- . *The federal government is exercising its spending power in relation to a project. Thus, there is no limit to the environmental effects or to the range of factors listed in section 16 of the Act that can be taken into consideration in the EA. The EA can include consideration of the environmental effects of the refinery and pipeline extension on the deer as well as on the migratory birds. The RA can impose conditions on the project funding, such as mitigation measures to reduce any adverse environmental effects on the deer.*
- . *The RA will still need to consider the scope of the factors listed in section 16 of the Act. For example, if other refineries are located near the proposed site or there are new refineries proposed in the area, the RA will need to determine which of those projects should be considered in assessing the project's cumulative environmental effects.*

## 1.4.2 Factors to be considered

### *Both screening and comprehensive study*

The following factors must be addressed in both a screening and a comprehensive study:

- the environmental effects of the project, including
  - . the environmental effects of malfunctions or accidents that may occur in connection with the project;
  - . any cumulative environmental effects that are likely to result from the project in combination with other projects or activities that have been or will be carried out;
- the significance of the environmental effects;
- public comments, if applicable or received in accordance with the regulations (under current regulations, providing opportunities for public comment is mandatory for comprehensive studies and public reviews, but not for screenings);
- technically and economically feasible measures that would mitigate any significant adverse environmental effects of the project;
- any other matter relevant to the assessment that the RA may require, such as the need for and alternatives to the project.

The RA must also identify those environmental effects (including any directly related to human health, heritage, socioeconomic conditions, and other factors) relevant to the assessment requiring further investigation.

### *Comprehensive study only*

In addition to the factors listed above, a comprehensive study must also consider the following:

- the purpose of the project;
- technically and economically feasible alternative means of carrying out the project as well as the environmental effects of these alternative means;
- effects on the capacity of renewable resources likely to be significantly affected by the project to meet present and future needs;
- the need for, and the requirements of, any follow-up program.

The RA must also determine the scope of the factors to be considered in the screening or comprehensive study. This refers to the geographic boundaries and time frame of the effects.



## *Alternatives*

*The CEAA distinguishes between "alternative means" and "alternatives to"*

*"Alternative means" of carrying out the project are methods of a similar technical character or methods that are functionally the same. "Alternative means" with respect to a nuclear power plant, for example, includes selecting a different location, building several smaller plants, and expanding an existing nuclear plant. "Alternative means" that are technically and economically feasible must be considered in a comprehensive study, mediation, and panel review, but are discretionary under a screening.*

*In contrast, "alternatives to" the project are functionally different ways of achieving the same end. For example, "alternatives to" the nuclear power plant include importing power, building a hydroelectric dam, conserving energy, and obtaining the energy through renewable sources. Consideration of "alternatives to" the project is at the discretion of the RA in screening, or of the Minister in consultation with the RA in a comprehensive study, mediation, or panel review.*

### **1.4.3 Interested parties**

The third aspect of scoping is to determine who is interested in the project, what their concerns are, and how they should be involved in the assessment. At this step, the RA can begin a program of communication and consultation that can provide benefits later in the EA (for example, through early response to public concerns in order to minimize time delays and increases in project costs).

Interested parties will typically fit into one of five categories: expert federal departments; other federal authorities; provincial, municipal, and territorial governments; private sector organizations; and the public.

#### *Expert federal departments*

Some federal authorities may be a source of baseline data, knowledge, or expertise relevant to the EA. These federal authorities, or expert federal departments, have a special role to play in the EA process. Under the Act, these departments must

provide specialist information and expertise relevant to the project when requested by the RA.

Expert federal authorities include Agriculture Canada, Department of Natural Resources Canada, Environment Canada, Fisheries and Oceans Canada, Health Canada, Heritage Canada, and Indian Affairs and Northern Development.

Expert federal departments may be involved at every stage of the EA process, from reviewing terms of reference at the scoping step, and providing data during preparation of the EA report, to reviewing the report and appearing as an expert witness during a panel review. The independent review function is of particular importance, because it helps ensure the scientific and technical quality of EA reports prepared under the Act.

The following general guidelines should apply to the RA when involving an expert department:

- The RA should try to identify and involve the relevant expert federal departments at the early stages of an EA.
- The RA's request for information or advice should relate directly to its EA, and should be clear and concise, in order to use the expert department's time most effectively.
- Expert departments should be expected to provide reasonably available (that is, "off-the-shelf") information, but not to undertake lengthy or costly research to obtain the information.
- The "proponent pays" principle should apply in cases where the expert department undertakes new work, at the request of the RA, to provide necessary information or analysis.
- Prior to submitting an EA report for Agency and public review, the RA should ensure that all relevant expert federal departments have reviewed it for scientific and technical accuracy, and that any concerns raised by these departments have been addressed.

### *Other federal authorities*

Other federal departments and agencies may have an interest as another RA of the project, such as a regulator, owner or administrator of lands, or source of funds for the project.

If another federal authority is involved through funding, granting an interest in federal land, or granting of a licence or permit, then the two RAs need to determine which will be the lead RA for the screening. The Agency can advise the RAs on this determination, if necessary.

### *Provincial, municipal, and territorial governments*

Provincial, municipal, and territorial government departments and agencies may be directly involved in the project in one or more ways. Another level of government could be the proponent, or could be involved as a regulator, landowner, or source of funds for the project. If a province is involved, the RA should determine whether there is a federal-provincial agreement in place on EA procedures. If so, the project could be assessed through a joint EA procedure that satisfies both the federal and the provincial requirements. In such a case, the RA should review that agreement for its applicability to the proposed project.

In addition, another level of government could be a source of baseline environmental information, expertise, or specialist knowledge for the screening.

#### *Federal-Provincial Agreements*

*Some projects may require authorization by both provincial or territorial governments and the federal government. To avoid the duplication and excessive costs of separate EAs, the Act gives the Minister the power to enter into agreements or arrangements with any jurisdiction for the purpose of assessing the environmental effects of projects where both parties have authorization responsibilities.*

*These bilateral agreements provide guidelines for cooperating on EAs, including roles and responsibilities relating to joint panels, mediation, screening, notification, and cost-sharing. By promoting cooperation and "harmonization" of EA procedures among governments, the agreements help achieve more effective and consistent EA processes in Canada.*

### *Private-sector organizations*

A private-sector company or organization may need or want to be involved in the screening as the proponent, as a source of environmental information or expertise about the project, or because it is affected directly or indirectly by the project.



## *The public*

Public concerns about a project can justify its referral to a public review at any time during a screening or comprehensive study. The RA should be aware of, and respond to, public concerns at every step of the assessment, and not only when the screening or comprehensive study report is completed.

Public interest will vary depending on the nature of the project and the site. The RA should contact those who have expressed an interest in the project in the past, as well as those who are likely to be directly or indirectly affected (whether or not they have expressed an interest). Members of the public may also provide the RA with local knowledge and expertise about the project's environmental setting.

### **1.4.4 Appropriate level of effort**

The fourth aspect of scoping is to determine the appropriate level of effort for the screening or comprehensive study. Depending on the project, the environmental setting, the likely environmental effects, the availability of information, and uncertainty about the environmental effects or mitigation measures, a self-directed EA may vary in time, effort and documentation. A decision about the appropriate level of analysis and effort is therefore an important element of the scoping step, and can lead to significant savings in both time and cost.

After having determined the scope of the issues and identified the interested parties, the RA will be in a better position to determine the appropriate level of effort. The wider the range of relevant issues, the greater the information needs, the higher the level of uncertainty about the environmental effects or mitigation measures, and the greater the number of interested parties, the greater will be the required effort and analysis.

## **1.5 Step 2: Assessing Environmental Effects**

Once scoping has been completed, the second step in a self-directed EA is to assess the environmental effects of the project. This consists of three tasks:

- description of the project;
- description of the existing environment;
- identification of project-environment interactions.

The RA has the option of involving others -- the public, outside experts, other federal government departments and other governments -- in any of these tasks if it believes such information could be helpful.

### 1.5.1 The project

The project's components or activities should be described. For a project that is in relation to a physical work, for example, the description should include

- location;
- physical layout and design;
- construction plans and scheduling;
- standard control procedures and mitigation measures;
- operating procedures and decommissioning plans;
- the federal power, duty, or function required or requested (such as funding, an interest in federal lands, or federal permit or licence).

In the case of an industrial project, it is essential to specify the quantity and quality of all emissions (solids, liquids, and gases), as well as any pollution-control devices to be used.

#### *Describing a dredging project*

*The information needed to assess a dredging project should include*

- *data on the volume and composition of the material to be dredged (e.g., sand, silt, metals, organics, etc.)*
- *the type of dredging equipment to be used*
- *the extent and duration of dredging activity*
- *the project's expected completion date*

*Knowing where and when the dredging will be done, how much and what kind of material is involved, and how it will be collected and transported will help determine environmental effects if any material must be dumped into water or onto land.*

### *Project descriptions*

*Depending on the nature of the project and its site, the project description could include*

- *name of proponent and contact person*
- *brief discussion of the size, scope, and phasing of activity*
- *legal description of the project*
- *proposed location on a map at an appropriate scale, showing boundaries of the proposed site, major existing infrastructure, adjacent land uses, and any important environmental features (such as rivers)*
- *site plan of the project illustrating location of existing buildings and facilities, proposed components of the project, and any infrastructure required to service the project (such as utilities, rail and road access)*
- *where appropriate, schematic drawing and discussion of the project's production processes and technology*
- *estimates of the type of solid waste, liquid effluent, and gaseous emissions expected from the project, and a brief discussion of plans for their treatment and disposal*
- *identification of the expected volume of water required for the project, and an indication of its source and availability*
- *biophysical description of the site, having regard for soil, topography, vegetation, wildlife, and surface and ground water*
- *an estimate of the start and completion of construction, and the number of construction and operational employees*

### **1.5.2 The existing environment**

Relevant and reliable information on the environmental components of the study area's existing environment should be collected and described. The description should identify the most important environmental elements of the region being examined and explain the reasons for the boundaries of the study area. Only elements of the biophysical environment within the study area that are relevant to the project need be identified and evaluated.

The description must identify the physical, biological, and social characteristics of the environment, including

- relevant physical features and characteristics, such as landscape features, dynamics, and patterns;



- biological characteristics such as ecological processes and functions, species presence and seasonality, species interrelationships, and habitat;
- social characteristics such as patterns of land use and resource use;
- present land uses;
- patterns of other human disturbance.

### *Gathering environmental information*

- *Existing sources of information:*
  - . *previously conducted EAs*
  - . *reports*
  - . *databases*
  - . *expert departments*
  - . *indigenous peoples*
  - . *members of local communities*
  - . *industry*
  - . *academia*
  - . *aerial photos and satellite imagery*
- *Collecting new information:*
  - . *field investigations and surveys*
  - . *monitoring*
  - . *aerial photography*

### *Traditional ecological knowledge*

*Traditional ecological knowledge (TEK) (also known as indigenous knowledge) is the knowledge base acquired over hundreds of years by indigenous peoples through direct experience and contact with the environment. It takes several forms: an intimate and detailed knowledge of the environment, including plants, animals, and natural phenomena; the development and use of appropriate technologies for hunting, fishing, agriculture, and forestry; and a holistic world view that parallels the scientific discipline of ecology.*

### 1.5.3 Project-environment interactions

Using the basic information on the project and the existing environment, the assessment should then identify any potential links between them: how, where, and when could the project's activities interact and affect environmental components? It should compare the location and timing of project activities with the location, sensitivity, seasonal presence, and abundance of the environmental components.

Project-environment interactions can often be identified by using map overlays and matrix tables. The interactions are not always apparent, however. In some cases, such as the disposal of toxic substances, it may take years for an effect to be recognized. In other cases, such as the transport of pollutants by air or water, the project-environment interaction occurs far from the project site itself.

*Methods for  
identifying project-environment interactions*

- *overlay maps*
- *matrix tables*
- *expert groups*

#### ***Cumulative environmental effects*** (for both a screening and comprehensive study)

In a self-directed EA, whether a screening or comprehensive study, the assessment must consider any cumulative environmental effects likely to result from the project in combination with existing or planned projects or activities.

Environmental effects are often seen as isolated or separate from one another. In reality, however, they interact over time and space. Therefore, to address cumulative environmental effects requires analysts to "think cumulatively," taking into account

- time and geographic boundaries;
- interactions between the project's environmental effects;
- interactions between the project's environmental effects and those of other projects and activities.

The assessment should consider the following points with respect to cumulative environmental effects:

### *Examples of cumulative environmental effects*

- *decline in water quality resulting from discharge of various chemicals by different industrial plants*
- *decline in air quality resulting from NO<sub>x</sub> and SO<sub>x</sub> emissions from automobiles, industrial plants, and coal and oil-fired generating stations*

- Only "environmental effects" as defined in the Act are considered.
- The legislation does not define "activity"; hence, any relevant past or future activity must be taken into account.
- Only future projects that **will** be carried out need to be considered (that is, not those that "may" or "could" be).
- Only **likely** cumulative environmental effects must be taken into account.
- The significance of the cumulative environmental effects must be determined.

For more information on cumulative environmental effects, review the reference guide "Addressing Cumulative Environmental Effects" in Part III.

***Sustainable use of renewable resources*** (mandatory for a comprehensive study; optional in a screening)

A comprehensive study must also consider the effect of the project on the capacity of those renewable resources that are likely to be significantly affected to meet present and future needs.

This capacity -- sustainable use -- is based on a range of ecological considerations, such as

- the integrity of the ecosystem (that is, its complexity, diversity, stability, and resilience);
- the productive capacity of the resource;
- the carrying capacity of the ecosystem;
- the assimilative capacity of the ecosystem.

The sustainable use of renewable resources is closely linked to the consideration of cumulative environmental effects. For example, an adverse effect on the sustainable use of a renewable resource, such as a fishery, may be caused by a cumulative environmental effect of a project, or it may be a cumulative environmental effect in its own right.



As with cumulative environmental effects, assessing sustainable-use effects requires consideration of temporal and geographic boundaries and scales. When assessing sustainable-use effects, the RA should consider

- only those environmental effects as defined in the Act;
- only those renewable resources likely to be affected in a significant way by the project;
- the significance of the sustainable use effects.

For more information on sustainable use effects, review the reference guide "Determining the Capacity of Renewable Resources to Meet Present and Future Needs" (in preparation) in Part III.

#### **1.5.4 Other factors**

The RA must also ensure that the screening or comprehensive study considers the full range of environmental effects as defined in the Act. These effects include not only the direct changes to the biophysical environment, but also effects in several socioeconomic and cultural areas that flow directly from the environmental effects of the project, including

- effects on human health;
- effects on socioeconomic conditions;
- effects on physical and cultural heritage, including effects on things of archaeological, paleontological, or architectural significance;
- effects on the current use of lands and resources for traditional purposes by aboriginal persons.

In addition, the screening or comprehensive study must consider the effects of any change to the project that may be caused by the environment. Several of these factors are briefly discussed below.

##### ***Effects on human health***

The self-directed EA must consider the effects on human health caused by a change in the environment due to the project. For the purposes of the Act, effects on health include effects at the population or community level on

- physical health, including death and disease rates;
- psychological, emotional, spiritual, or mental health and well-being.

In addition, the assessment must consider

- cumulative environmental effects on health;

- the significance of the effects on health;
- technically and economically feasible measures that would mitigate any significant adverse effects on health.

For more information, review the reference guide "Assessing the Effects on Health" (in preparation) in Part III.

*Example of effects on health conditions*

- *toxicological effects of human consumption of fish contaminated by toxic chemicals*

***Effects on socioeconomic conditions***

The screening or comprehensive study can consider only effects on socioeconomic conditions caused by a change in the environment due to the project. For the purposes of the federal EA process, socioeconomic conditions include effects at the population or community level on

- the quality of life or "way of life";
- the economy, commercial opportunities, or employment;
- the availability of recreational opportunities or amenities;
- home life or personal security;
- future land uses;
- the future use or future production of commercial species or resources;

In addition, the following effects must be considered

- cumulative environmental effects on socioeconomic conditions;
- the significance of the effects on socioeconomic conditions;
- technically and economically feasible measures that would mitigate any significant adverse effects on socioeconomic conditions.

For more information, review the reference guide "Assessing the Effects on Socioeconomic Conditions" (in preparation) in Part III.

***Effects on physical and cultural heritage***

The self-directed EA must consider the potential environmental effects on physical and

*Example of effects on socio-economic conditions*

- *closure of commercial or recreational fishery because of contaminated fish*

cultural heritage and to any structure, site, or thing that is of historical, archaeological, paleontological or architectural significance that would result from environmental changes associated with the project.

In assessing for effects on heritage, the EA should

- ensure the preservation and protection of sites and objects formally recognized at the international, national, provincial, and municipal levels;
- ensure that the consideration of heritage resources in the EA is consistent with existing laws and policies on heritage relevant within the project area;
- recognize that a heritage site may have a cultural value greater than the apparent value of the site's physical components;
- take into account the unique cultural interests and values of aboriginal peoples.

In addition, the assessment must consider

- cumulative environmental effects on physical and cultural heritage resources;
- the significance of the effects on these resources;
- technically and economically feasible measures that would mitigate any significant adverse effects on these resources.

For more information, review the reference guide "Determining Environmental Effects on Physical and Cultural Heritage" (in preparation) in Part III.

*Examples of effects on heritage*

- *loss of an archaeological site because of excavation or site preparation for an industrial park or plant*
- *damage to a historic burial site during pipeline construction*



*Examples of effects of the environment on the project*

- *river flooding causing washout of a bridge*
- *iceberg damage to a small-craft harbour*

*Examples of effects on the current use of lands and resources  
for traditional purposes by aboriginal persons*

- *flooding of traditional trapping lines by a hydroelectric dam*
- *reduction in subsistence fishing as a result of a river-dredging project*

## 1.6 Step 3: Mitigating Environmental Effects

The third step in a self-directed EA is to identify technically and economically feasible measures that will mitigate a project's likely environmental effects. Mitigation is the elimination, reduction, or control of a project's adverse environmental effects, including restitution for any damage to the environment caused by such effects through replacement, restoration, compensation, or any other means.

The Act requires that mitigation measures be developed to address significant effects. As well, mitigation measures are considered part of the project when determining the significance of any adverse environmental effects under the Act.

More generally, mitigation is used to address all adverse environmental effects, whether or not subsequent analysis determines that the effects are significant. In practice, the development of mitigation measures should not begin after the assessment of environmental effects. Rather, mitigation measures are typically part of the project design, developed during a project's feasibility study, defined in the project plan, and refined as the assessment progresses and the project's likely environmental effects become clear. Mitigation measures are often part of the industry's or department's code of good practice.

Mitigation measures can be identified and developed in a variety of ways. Some kinds of projects, such as road construction, have well-established mitigation measures, although practitioners must take into account site-specific circumstances. Other projects may require a more formalized approach to developing mitigation measures, such as involving specialists or obtaining information from local residents through public consultation.

*Common mitigation measures for road construction*

- *scheduling culvert installations to avoid sensitive life cycles of fish and wildlife*
- *avoiding migratory bird staging and nesting areas*
- *avoiding fish spawning areas*
- *housing work crews in camps*
- *prohibiting work crews from hunting and fishing*

## **1.7 Step 4: Determining the Significance of Adverse Environmental Effects**

The fourth step in a screening or comprehensive study is to determine whether or not the project is likely to cause significant adverse environmental effects, taking into account mitigation measures. This determination directly affects whether the RA can take a course of action with respect to the project, or whether further review is needed through mediation or a panel review.

### **1.7.1 The question**

Taking into account the implementation of any mitigation measures the RA considers appropriate, the question is whether the project is likely to result in significant adverse environmental effects. This means that the screening or comprehensive study must determine whether

- the environmental effects are adverse;
- the adverse environmental effects are significant; and
- the significant adverse environmental effects are likely.

In addressing these three points, the RA should keep in mind that only those environmental effects as defined in the Act and included in the scope of the assessment can be considered in the determination.

### **1.7.2 The role of the public**

The conclusions with respect to the determination of significant adverse environmental effects must be based on sound scientific evidence and analysis (including traditional ecological knowledge). But that is not to say that public input has no role to play or

that significance is an issue for scientists alone. On the contrary, public input can play an important role in the determination, as well as in the overall EA process.

By its nature, scientific analysis, although objective, is frequently open to different interpretations. The public perspective on these interpretations is an entirely valid one. Public input into the determination of significant adverse environmental effects must, however, limit itself to questions related to scientific analysis and interpretation. The public, for example, could provide new evidence, offer a different interpretation of the facts, or question the credibility of the conclusions.

Issues that are not directly linked to the scientific analysis of environmental effects, such as long-term unemployment in a community or fundamental personal values, cannot be introduced into the determination at this step. Such public concerns and values are given prominence elsewhere in the EA process. Under the Act, serious public concerns can warrant referral of the project to a public review through either mediation or a public panel review. That is, public concerns -- that may or may not have to do with scientific issues -- can prompt the EA process to take a closer look at the project. Only after a public review can it be determined whether significant adverse environmental effects are justified in the circumstances, a determination that may well look at such factors as unemployment and public values.

#### *Objective conclusions*

*The conclusions of the screening report and comprehensive study report with respect to the significance of the adverse environmental effects are "objective" in the sense that they are based on scientific evidence and analysis, and do not stem from the opinion of either the Minister or the RA.*

### **1.7.3 Applying the criteria**

Practitioners must apply different sets of criteria to determine whether the environmental effect is adverse, significant, and likely.

(For more information on the three sets of criteria and their application, review the reference guide "Determining Whether a Project is Likely to Cause Significant Adverse Environmental Effects" in Part III.)



### ***Are the environmental effects adverse?***

The most common way of determining whether the environmental effects are adverse is to compare the quality of the environment before the project with the predicted quality of the environment with the project in place, using relevant criteria from the list. This approach requires information on baseline environmental conditions.

Criteria for determining adverse effects include

- loss of rare or endangered species;
- reductions in species diversity;
- loss of critical/productive habitat;
- transformation of natural landscapes;
- toxicity effects on human health;
- reductions in the capacity of renewable resources to meet the needs of present and future generations;
- loss of current use of lands and resources for traditional purposes by aboriginal persons;
- foreclosure of future resource use or production.

### ***Are the adverse environmental effects significant?***

Environmental standards, guidelines, and objectives are commonly used to establish significance. They typically specify threshold levels, such as maximum acceptable ground-level concentrations of air pollutants. Where no such threshold standards or guidelines exist, other methods, such as risk assessment, may need to be applied.

Criteria for determining significance include

- magnitude;
- geographic extent;
- duration and frequency;
- irreversibility;
- ecological context.

### ***Are the significant adverse environmental effects likely?***

Criteria for determining likelihood include

- probability of occurrence;
- scientific uncertainty.

Whenever possible, the assessment should try to apply statistical methods to determine significance. Where such methods are not feasible, practitioners will need to use a qualitative approach to determining likelihood, based on professional judgement.

*Factors used in determining whether or not  
environmental effects are adverse*

*Environmental changes:*

- *negative effects on the health of biota including plants, animals, and fish*
- *threat to rare or endangered species*
- *reductions in species diversity or disruption of food webs*
- *loss of, or damage to, habitats, including habitat fragmentation*
- *discharges or release of persistent and/or toxic chemicals, microbiological agents, nutrients (e.g., nitrogen, phosphorus), radiation or thermal energy (e.g., cooling wastewater)*
- *population declines, particularly in top predator, large, or long-lived species*
- *the removal of resource materials (e.g., peat, coal) from the environment*
- *transformation of natural landscapes*
- *obstruction of migration, or passage of wildlife*
- *negative effects on the quality and/or quantity of the biophysical environment (e.g., surface water, groundwater, soil, land and air)*

*Effects on people resulting from environmental changes:*

- *negative effects on human health, well-being, or quality of life*
- *increase in unemployment or shrinkage in the economy*
- *reduction of the quality or quantity of recreational opportunities or amenities*
- *detrimental change in the current use of lands and resources for traditional purposes by aboriginal persons*
- *negative effects on historical, archaeological, paleontological, or architectural resources*
- *decreased aesthetic appeal or changes in visual amenities (e.g., views)*
- *loss of, or damage to, commercial species or resources*
- *foreclosure of future resource use or production*
- *loss of, or damage to, valued, rare, or endangered species or their habitats*

## 1.8 Step 5: Preparing the Environmental Assessment Report

In the fifth step of a self-directed EA, the RA must prepare (or ensure the preparation of) a screening report or comprehensive study report based on the results of the EA. The report should sufficiently explain how the assessment arrived at its conclusion. It should also provide a clear description of any proposed mitigation measures, and outline any requirements for follow-up that the RA believes are necessary.

### *Sample outline for an EA report*

*The RA can develop its own simple format for a screening report or comprehensive study report. Following is a sample outline:*

- *Name of proposal*
- *Brief description (location, cost, etc.)*
- *Nature of effects identified*
- *Proposed mitigation measures*
- *Federal/provincial agencies consulted*
- *Public advised (list methods as applicable)*
- *Approximate date of implementation*
- *Conclusion and rationale*
- *Departmental/agency contact (name and telephone number)*

### 1.8.1 The screening report

The screening report must be included in the public registry established for the project.

As a minimum, the screening report should include

- **description of project activities:** a list of activities and their locations, scheduling details, and estimates of their magnitude or scale (quantified, if possible);
- **description of the environment:** identification of the environmental components in the study area, their interrelationship, and documentation or discussion of their sensitivity to disturbance;
- **environmental effects:** a summary of the effects, including cumulative environmental effects and the effects of malfunctions or accidents, of project activities on those components of the environment considered at risk;
- **proposed mitigation measures:** a list and description of any mitigation measures, referenced to the environmental effects they are designed to eliminate or reduce, that in the opinion of the RA, are required to prevent or



- reduce significant adverse environmental effects;
- **determination of significance:** a statement of whether the adverse environmental effects, taking into account appropriate mitigation measures, are significant or uncertain;
- **screening conclusion:** a statement and rationale of the screening conclusion;
- **departmental/agency contact:** name and telephone number of person to contact for more information.

The RA also has the discretionary power to require consideration of other factors appropriate to the nature and complexity of the project, including

- **the need for the project;**
- **alternatives to the project;**
- **alternative means of carrying out the project:** a description of the alternative means, the environmental effects of any such alternative means, and a rationale explaining why the alternatives were rejected;
- **expert department consultation:** a record of consultations with expert federal departments, and a discussion of any unresolved issues raised during these consultations;
- **public consultation:** a description of any public consultation during the screening, the results of the consultations, and an outline of any future consultation program;
- **follow-up programs:** details on monitoring programs to evaluate the effectiveness of mitigation measures as well as to determine the accuracy of the EA;
- **supporting information:** a summary and interpretation of technical and environmental studies, maps, or other information used in making the screening decision;
- any other matter relevant to the screening.

#### *Future use of a screening report*

*Besides forming the basis of the decision on the project, an RA's screening report will become a source of information on environmental effects and mitigation for future screenings, and eventually may be used as a class screening report. Some departments may want to establish a database of completed screening reports that is easily accessible to those responsible for screening.*

## 1.8.2 The comprehensive study report

The comprehensive study report must be included in the public registry established for the project. As a minimum, the report must include

- **description of project activities:** a statement of the purpose, a list of activities and their locations, scheduling details, and estimates of their magnitude or scale (quantified, if possible);
- **alternative means of carrying out the project:** a description of any technically and economically feasible alternative means, the environmental effects of any such alternative means, and a rationale explaining why the alternatives were rejected;
- **discussion of the scope of the environmental assessment:** a discussion of how the scope of the project and scope of the assessment were determined;
- **description of the environment:** identification of the environmental components in the study area, their interrelationship, and documentation or discussion of their sensitivity to disturbance;
- **environmental effects:** a summary of the effects of project activities on those components of the environment considered at risk, including a consideration of cumulative environmental effects and the effects of malfunctions or accidents that may occur;
- **effects on sustainable use of renewable resources:** a consideration of the capacity of renewable resources likely to be significantly affected by the project to meet present and future needs;
- **proposed mitigation measures:** a list and description of any mitigation measures, referenced to the environmental effects they are designed to eliminate or reduce, that, in the opinion of the RA, are required to prevent or reduce significant adverse environmental effects;
- **determination of significance:** a statement of whether the adverse environmental effects, taking into account appropriate mitigation measures, are significant or uncertain;
- **conclusion:** a statement and rationale of the conclusion;
- **expert department consultation:** a record of consultations with expert federal departments, and a discussion of any unresolved issues raised during these consultations;
- **public comments:** an identification of the public groups with an interest in the project, comments received from the public during the course of the EA, a discussion of how those comments have been incorporated into the comprehensive study report and a discussion of why some of those comments may not have been incorporated, a description of any public consultation during the EA as well as the results of the consultations, and an outline of any future consultation program;
- **follow-up programs:** a discussion of the need for and the requirements of a follow-up program to evaluate the effectiveness of mitigation measures and to

- determine the accuracy of the EA;
- **supporting information:** a summary and interpretation of environmental studies, maps, or other information used in the EA;
- **departmental/agency contact:** name and telephone number of person to contact for more information.

The RA also has the discretionary power to require a consideration of other factors appropriate to the nature and complexity of the project, such as the **need for** and **alternatives to** the project.

*Record of consultation  
with expert federal departments*

- *evidence that the comprehensive study has been reviewed with all relevant expert federal departments and agencies*
- *should include a summary of the expertise provided by these departments and agencies, together with a discussion of any remaining technical concerns or issues that they have raised, or any unresolved issues*

## 1.9 Step 6: Review of the Environmental Assessment Report

When a self-directed EA is completed, the report may be subject to an outside review. In a screening, the RA has the option of allowing public review and comment on the screening report. In a comprehensive study, however, the Agency must ensure that the comprehensive study report is reviewed and available for comment.

### 1.9.1 The screening report

The RA will want to ensure that all relevant expert federal departments have had an opportunity to provide specialist information and expertise during the screening or to comment on the scientific and technical accuracy of the report.

Public involvement is discretionary in a screening. When the RA believes that public participation is appropriate, however, it should provide the public with an opportunity to examine and comment on the screening report before making any decision on whether to provide federal support to the project. In addition, the public will be given an opportunity to review and comment on all proposed class screening reports.

For more information on public involvement, review the reference guide "Public Involvement" (in preparation) in Part III.



## **1.9.2 The comprehensive study report**

As in the case of a screening, the RA should ensure that all relevant expert federal departments have had an opportunity to provide specialist information and expertise during preparation of the comprehensive study report, and comment on the scientific and technical accuracy of the report.

The completed comprehensive study report must then be submitted to the Minister of the Environment and the Canadian Environmental Assessment Agency.

### ***Review by the public***

When it has received the comprehensive study report, the Agency must publish a notice setting out

- when the report will be available to the public;
- where copies of the report may be obtained;
- the deadline for filing comments on the conclusions and recommendations of the report.

Prior to the deadline set out in the notice, any person may file comments with the Agency about the conclusions, recommendations, and any other aspect of the comprehensive study report. The RA must ensure that the comprehensive study report and public comments are filed in the public registry.

### ***Review by the Agency***

The Agency has several responsibilities with respect to the comprehensive study report. These include

- ensuring the report is reviewed;
- publishing a notice to facilitate public comment on the report;
- receiving and reviewing any public comments forwarded to the Agency;
- making recommendations to the Minister, based on the Agency's review of the report and public comments.

The Agency's review will address such issues as:

- Was the comprehensive study undertaken and conducted in accordance with the procedural requirements and intent of the Act?
- Were all the relevant expert federal authorities consulted and all concerns adequately resolved?
- Were there appropriate and sufficient opportunities for public involvement in the comprehensive study and are there any outstanding public concerns?

When the Agency has reviewed the report and all comments received from the public and expert federal departments, it must provide a recommendation to the Minister concerning the next step in the EA.

## **1.10 Step 7: Decision by the Responsible Authority and the Minister**

When the review of the EA report is completed, a determination must be made whether the RA can provide federal support to the project (that is, whether to proceed as proponent, or to grant the funds, licence, or interest in lands needed by the project). In the case of a screening, this determination is made by the RA. Upon completion of a comprehensive study, however, the Minister determines the next step in the EA process.

### **1.10.1 Public concerns**

Public concerns about a project can trigger a public review. Therefore, they must be explicitly addressed upon completion of the self-directed EA report. Ideally, public involvement programs conducted during the scoping and assessment steps will have identified public concerns and helped identify ways in which they can be resolved.

In the case of a screening, the RA must consider whether public concerns warrant referral to mediation or a panel review. In a comprehensive study, the Minister will make the determination, on the advice of the Agency and RA. (From a practical perspective, the RA can ask the Minister to refer the project directly to a public review at any time before completion of the screening or comprehensive study if it is clear from the outset that public concerns about the project are unlikely to be adequately addressed in a self-directed EA.)

The *Point Aconi* decision of the Federal Court of Canada has provided guidance to RAs in using their discretionary powers in response to public concerns. (*Cantwell and others v. Minister of the Environment and others* (1991), 41 F.T.R. 18). In reviewing a decision by a federal Minister not to refer a project to a review panel, even though there was (in the Court's words) "widespread" public concern about the project, the Court noted factors that are likely to be relevant and irrelevant in deciding whether public concerns warrant a referral to a mediator or panel.

As a general guide, the Court stated that discretion with respect to interpreting the phrase must be exercised "reasonably and in good faith taking into account relevant considerations (and) having regard to the purposes of the legislation."

Relevant factors identified in the decision included

- the level and extent of public concern about the project;
- the general conclusion of the EA that expressly refers to public concerns;
- the evidence of widespread public concern about the project and interest in a public review, as reflected in the EA report and other documents;
- advice to the Minister that environmental effects over which members of the public have expressed concern are considered to be insignificant or mitigable with known technology;
- lack of likely effectiveness of a panel in recommending changes in the project that would address concerns expressed by the public.

Factors that were found to be irrelevant in determining the need for a referral included

- considerations of expediency or practicality;
- the fact that construction had begun on the project;
- that a provincial government, having concluded its own assessment, would be unlikely to agree to participate in a public review.

#### *Public concerns*

*Public concerns, if not addressed sufficiently in the screening or comprehensive study, can warrant a referral to a public review either through mediation or panel review. Public concerns can be expressed in many ways:*

- *correspondence and telephone calls to the Minister, local MPs, the Agency, or the department*
- *media coverage of public concerns*
- *community events, such as demonstrations or meetings about the project;*
- *formal interventions*
- *informal communication*

*RAs should not necessarily rely on numbers when judging the importance of public concerns. Even a few letters or calls may express public concerns, particularly if they are from people who will be most directly affected by a project.*



### 1.10.2 Screening

In the case of a screening, one of three decisions by the RA is possible, taking into account appropriate mitigation measures:

- the RA may provide federal support to the project if the project is not likely to cause significant adverse environmental effects;
- the RA must not provide federal support to the project if the project is likely to cause significant adverse environmental effects that cannot be justified;
- the RA must request that the Minister refer the project to a public review if
  - it is uncertain whether the project is likely to cause significant adverse environmental effects;
  - the project is likely to cause significant adverse environmental effects, and a determination must be made whether these effects are justified in the circumstances;
  - public concerns warrant a public review.

If the Minister refers the project to a public review, then the RA must not provide federal support to the project until the public review is completed.

### 1.10.3 Comprehensive Study

The possible decisions under a comprehensive study are identical to those under a screening, except for the important difference in the role of the Minister of the Environment. Upon completion of a comprehensive study, it is the Minister who is responsible for determining the next step in the EA process, based on the findings of the comprehensive study report and public comments received.

The Minister will refer the project back to the RA for action, if, taking into account appropriate mitigation measures

- the project is not likely to cause significant adverse environmental effects, in which case the RA may provide federal support to the project; or
- the project is likely to cause significant adverse environmental effects that cannot be justified, in which case it may not provide any federal support to the project.

The Minister will refer the project to a mediator or review panel, if, again taking into account appropriate mitigation measures

- it is uncertain whether the project is likely to cause significant adverse environmental effects;
- the project is likely to cause significant adverse environmental effects and a

determination must be made whether these effects are justified in the circumstances;

- public concerns warrant the referral.

If the Minister refers the project to a public review, then neither the RA nor any other federal authority may provide federal support to the project until the public review is completed.

## **1.11 Step 8: Post-Decision Activity**

The final step in the self-directed EA process addresses the RA's obligations following completion of the screening report or comprehensive study report and its determination about whether to provide federal support to the project. These obligations fall into three general categories:

- providing public notice about the course of action;
- deciding whether a follow-up program is appropriate;
- ensuring the implementation of appropriate mitigation measures.

### **1.11.1 Public notice**

The RA must provide public notice regarding its course of action, regardless of whether it determines that it may provide federal support to the project.

If it does not provide federal support, the RA must file a notice of that course of action in the public registry. If it does provide federal support, the RA must advise the public of

- the RA's course of action;
- any mitigation measures to be implemented with respect to the project's adverse environmental effects;
- any follow-up program that is implemented;
- any results of the follow-up program.

The type of public notice should be appropriate to the circumstances of the project and reflect the public involvement effort that has been undertaken. Examples include newspaper advertisements, news releases, community bulletin boards, and public meetings. All documents should be included in the public registry. At this time, public notification cannot be achieved by filing the EA on the federal EA index. The index may be enhanced in future, however, to include this function.

The RA's obligation to advise the public of the above information is a service designated for the use, benefit and information of the public. As a result, an RA has responsibilities to communicate this information to the public in accordance with the *Official Languages Act (OLA)*.

The public notice must be in both official languages when the EA is administered in an area designated as bilingual. These designations include

- the RA's head office, which, as the central office of a federal institution, is designated bilingual under the *OLA*;
- an office or facility located within the National Capital Region;
- an office or facility located in a region designated as bilingual under the *OLA* under Treasury Board's "significant demand" criterion.

Written notices may be bilingual, or produced in separate but equal versions. In the latter case, each version must clearly indicate the availability of the information in the other official language.

### **1.11.2 Follow-up program**

Under the Act, a follow-up program

- verifies the accuracy of the EA; and/or
- determines the effectiveness of any mitigation measures that have been implemented.

#### *When a follow-up program may be appropriate*

*The RA should develop a follow-up program for a project when the circumstances warrant. Examples include situations where*

- *the project involves a new or unproven technology*
- *the project involves new or unproven mitigation measures*
- *an otherwise familiar or routine project is proposed for a new or unfamiliar environmental setting*
- *the assessment's analysis was based on a new assessment technique or model, or there is otherwise some uncertainty about the conclusions*
- *project scheduling is subject to change such that environmental effects could result*

### **Screening**

The need for and requirements of a follow-up program need not be considered during preparation of the screening report. If, on completion of the report, however, the RA determines that it may provide federal support to the project, it must make a decision about whether a follow-up program is appropriate. If so, it must ensure that one is designed and implemented.



## ***Comprehensive study***

A comprehensive study must explicitly consider the need for and requirements of a follow-up program during preparation of the report. If the RA determines it may provide federal support to the project, it must then decide whether to implement the follow-up program.

The critical question regarding implementation of a follow-up program is one of uncertainty or unfamiliarity -- in either the analysis and predictions of the environmental assessment, or in the mitigation measures. The assessment must consider, for example, whether a new modelling technique or an untried mitigation measure introduces a level of uncertainty into the project and, if so, what are the corresponding risks of an inaccurate analysis or ineffective mitigation measure?

### **1.11.3 Mitigation measures**

If the RA has determined that it may provide federal support to the project, and that the proponent is proceeding, the RA must ensure that any mitigation measures it considers appropriate are implemented.

RAs have powers other than those given under the Act that allow them to ensure implementation of mitigation measures -- for example through the issuance of conditional approvals, the holdback provisions of funding arrangements, and contractual arrangements. The RA should determine the most appropriate means of ensuring the implementation of mitigation measures.

#### *Examples of ensuring compliance with mitigation measures*

- *compliance statement or conditions of approval in contract with project proponent*
- *performance bond by proponent*
- *site visits*

## **1.12 The Self-directed Environmental Assessment Checklists**

This section provides checklists for RAs in conducting a self-directed EA under the Act. Tables 1-3 and 1-4 summarize the key obligations and decisions related to a screening and comprehensive study, respectively.

**Table 1-3  
Screening Checklist**

Have you		Yes	No
1.	Reviewed your obligations under the Act?	<input type="radio"/>	<input type="radio"/>
2.	Established a public registry for the project?	<input type="radio"/>	<input type="radio"/>
3.	Determined the scope of the project?	<input type="radio"/>	<input type="radio"/>
4.	Determined the factors to be considered in the EA?	<input type="radio"/>	<input type="radio"/>
5.	Determined the scope of the assessment?	<input type="radio"/>	<input type="radio"/>
6.	Determined whether the project has been previously assessed?	<input type="radio"/>	<input type="radio"/>
7.	Determined whether all or part of a class screening report can be applied to the assessment?	<input type="radio"/>	<input type="radio"/>
8.	Identified all RAs involved?	<input type="radio"/>	<input type="radio"/>
9.	Identified a lead RA, if required?	<input type="radio"/>	<input type="radio"/>
10.	Determined, if a provincial government is involved, whether there is a federal-provincial agreement in place?	<input type="radio"/>	<input type="radio"/>
11.	Reviewed your information needs and identified any gaps?	<input type="radio"/>	<input type="radio"/>
12.	Determined how any information gaps will be filled?	<input type="radio"/>	<input type="radio"/>
13.	Identified whether public input is appropriate?	<input type="radio"/>	<input type="radio"/>
14.	If yes, developed a public involvement program?	<input type="radio"/>	<input type="radio"/>
15.	Considered all environmental effects?	<input type="radio"/>	<input type="radio"/>
16.	Identified appropriate mitigation measures?	<input type="radio"/>	<input type="radio"/>
17.	Monitored public concerns about the project?	<input type="radio"/>	<input type="radio"/>
18.	Prepared a screening report in full compliance with the Act?	<input type="radio"/>	<input type="radio"/>
19.	Made a determination about whether the RA may provide federal support to the project?	<input type="radio"/>	<input type="radio"/>
20.	Provided public notice of the course of action on the project?	<input type="radio"/>	<input type="radio"/>
21.	Determined how the implementation of any mitigation measures, if appropriate, will be ensured?	<input type="radio"/>	<input type="radio"/>
22.	Filed all relevant documents and materials in the public registry?	<input type="radio"/>	<input type="radio"/>
23.	Considered the need for a follow-up program if the project is proceeding?	<input type="radio"/>	<input type="radio"/>
24.	Ensured the design and implementation of a follow-up program, if appropriate?	<input type="radio"/>	<input type="radio"/>

**Table 1-4**

**Comprehensive Study Checklist**

Have you

		Yes	No
1.	Reviewed your obligations under the Act?	<input type="radio"/>	<input type="radio"/>
2.	Established a public registry for the project?	<input type="radio"/>	<input type="radio"/>
3.	Determined the scope of the project?	<input type="radio"/>	<input type="radio"/>
4.	Determined the factors to be considered in the EA?	<input type="radio"/>	<input type="radio"/>
5.	Determined the scope of the assessment?	<input type="radio"/>	<input type="radio"/>
6.	Determined whether the project has been previously assessed?	<input type="radio"/>	<input type="radio"/>
7.	Identified all RAs involved?	<input type="radio"/>	<input type="radio"/>
8.	Identified a lead RA, if required?	<input type="radio"/>	<input type="radio"/>
9.	Determined, if a provincial government is involved, whether there is a federal-provincial agreement in place?	<input type="radio"/>	<input type="radio"/>
10.	Reviewed your information needs and identified any gaps?	<input type="radio"/>	<input type="radio"/>
11.	Determined how any information gaps will be filled?	<input type="radio"/>	<input type="radio"/>
12.	Consulted with all relevant expert federal departments?	<input type="radio"/>	<input type="radio"/>
13.	Developed a public involvement program?	<input type="radio"/>	<input type="radio"/>
14.	Considered all environmental effects?	<input type="radio"/>	<input type="radio"/>
15.	Identified appropriate mitigation measures?	<input type="radio"/>	<input type="radio"/>
16.	Monitored public concerns about the project?	<input type="radio"/>	<input type="radio"/>
17.	Considered the need for a follow-up program?	<input type="radio"/>	<input type="radio"/>
18.	Prepared a comprehensive study report in full compliance with the Act?	<input type="radio"/>	<input type="radio"/>
19.	Submitted the report to the Minister and Agency for review?	<input type="radio"/>	<input type="radio"/>
20.	Made a determination about whether the RA may provide federal support to the project?	<input type="radio"/>	<input type="radio"/>
21.	Provided public notice of the course of action on the project?	<input type="radio"/>	<input type="radio"/>
22.	Determined how the implementation of any mitigation measures, if appropriate, will be ensured?	<input type="radio"/>	<input type="radio"/>
23.	Ensured the design and implementation of a follow-up program, if appropriate?	<input type="radio"/>	<input type="radio"/>
24.	Filed all relevant documents and materials in the public registry?	<input type="radio"/>	<input type="radio"/>





## **CHAPTER 2**

### **THE PUBLIC REVIEW: MEDIATION AND PANEL REVIEW**

## Chapter 2: The Public Review: Mediation and Panel Review

### 2.1 The Public Review

In a public review, members of the public are given a greater opportunity to participate in the conduct of the environmental assessment (EA). The *Canadian Environmental Assessment Act* (Act) provides three options for the public review of projects: mediation, panel review, or a combination of the two. The Minister of the Environment can order a public review at any time during a screening or comprehensive study. The responsible authority (RA) may also request such a review from the Minister at any time.

Mediation and panel reviews are advisory rather than decision-making procedures, and the RA must still determine whether it may provide federal support to the project.

A referral to a public review is made because

- it is uncertain whether the project is likely to cause significant adverse environmental effects;
- the project is likely to cause significant adverse environmental effects and a determination must be made whether these effects are justified in the /circumstances; or
- public concerns about the project and its possible environmental effects warrant further investigation of the project.

A project can be referred to mediation or a panel review in any one of the following situations:

- after a screening;
- after a comprehensive study;
- at any time before completion of a screening or comprehensive study (in the case of a screening, a project can be referred to a public review only when the RA believes that the project is likely to cause significant adverse environmental effects or that public concerns warrant a referral);
- **before** the screening or comprehensive study actually begins, if it is clear from the outset that a public review will be necessary.

The Minister decides whether the project will proceed to either mediation or a panel review.

Where mediation is inappropriate or unsuccessful, the EA review is conducted by an independent panel. In certain cases, a panel review may be conducted jointly with another jurisdiction.



### **2.1.1 Mediation**

Mediation is a voluntary process of negotiation in which an independent and impartial mediator helps the interested parties resolve their issues. It is a formal step in the EA process, applied either on its own or to support a panel review. It is characterized by a non-adversarial, collaborative approach to solving problems and generating agreements where consensus is possible. It may also help to identify and clarify the issues where agreement is not possible.

In mediation, members of the public participate as representatives of interested parties, along with representatives of the RA, the proponent, and other groups as appropriate. Meetings or hearings open to the general public, as are held in a panel review, usually are not part of a mediation.

Mediation is an appropriate choice whenever all of the interested parties are willing to participate and a consensus appears possible. It is particularly effective where the issues involve a small number of interested parties and the environmental issues are limited in scope and number. It can be sensitive to local concerns and less costly than a panel review in terms of time and resources. Participants also gain a sense of having contributed to the resolution of a problem.

In this process, a mediator is appointed by the Minister after consulting with the RA and the other parties to the mediation. The mediator assists the participants in reaching a consensus, but does not make decisions for them.

Mediation can address all or part of an EA. For example, it may be used to resolve specific issues that may not be suitable for resolution by a review panel, such as determining the most effective mitigation measure.

Successful mediation reflects the following guiding principles:

- Participation must be voluntary; participants must see the value of such an approach.
- All legitimate stakeholders must be allowed to participate.
- The mediator must be independent and impartial.
- The mediator must be acceptable to all the parties involved.

If the mediation is successful in reaching an agreement, the RA must make a determination, based on the mediator's report, about whether it may provide federal support to the project.

## 2.1.2 Panel review

Where mediation is not appropriate or successful, the public review is conducted by an independent panel. The panel review, however, like mediation, is an advisory process and not binding on the RA.

The Minister appoints the panel and establishes its terms of reference after consulting with the RA. In certain cases, a panel review may be conducted jointly with another jurisdiction. (For a discussion on harmonization of federal and provincial EA systems, refer to section 1.3.5.)

Panel reviews are conducted in compliance with the Act and according to the following guiding principles:

- Information available to the panel is also made available to the public, with the exception of information that must remain confidential due to privacy or security concerns.
- Parties with a legitimate interest are encouraged to participate.
- Panel reviews involve informal but structured meetings.

In conducting a public review, the panel must

- ensure that the information required for the EA is obtained and made available to the public;
- convene hearings in a manner that offers the public an opportunity to participate;
- prepare a report setting out the rationale, conclusions, and recommendations of the panel, including any mitigation measures and follow-up program, as well as a summary of comments received by the public;
- submit the report to the Minister and the RA.

The Minister may also allow another federal process to be used as a substitute for a review panel under the Act. If the Minister determines that an EA process used by a federal authority under another federal Act or used by a body established under a lands claim agreement would be an appropriate substitute, a review panel may not be appointed under the Act.

Before allowing the substitution, the Minister must be satisfied that

- the substitute process includes a consideration of those factors required under the Act for a panel review;
- the public will be given an opportunity to participate in the EA;
- a report will be submitted to the Minister at the end of the EA;

- the report will be published;
- the process meets any other relevant criteria for the substitution established by the Minister.

When the panel's report is completed, the Minister refers the project back to the RA for action. The RA must then make a determination, based on the report of the review panel, about whether it may provide federal support to the project.

## 2.2 Roles and Responsibilities

There may be as many as nine key participants in a public review:

- the RA;
- the proponent;
- the mediator;
- the panel;
- the Agency;
- the Minister;
- expert federal departments;
- other federal authorities;
- the public.

Tables 2-1 and 2-2 summarize the roles and responsibilities of these participants in mediation and a panel review, respectively.

## 2.3 Key Steps

The public review process consists of seven basic steps (see Figure 2-1).



**Table 2-1**  
**Roles and Responsibilities of Participants**  
**in a Mediation**

The RA •	<div>must not provide federal support to the project until completion of the EA;</div> <div><ul style="list-style-type: none"><li>• advises the Minister on the terms of reference for the mediator;</li><li>• provides background information;</li><li>• participates in the mediation process;</li><li>• maintains a public registry prior to the referral to a mediator and from the time the mediator's report has been submitted to the Minister and the RA until the completion of any follow-up program;</li><li>• determines, after a successful mediation, and taking the recommendations of the mediator's report into account, whether it may provide federal support to the project;</li><li>• provides public notice of its course of action, including the extent to which the mediator's recommendations have been adopted;</li><li>• ensures that all appropriate mitigation measures are implemented for any project that is proceeding;</li><li>• ensures that, when appropriate, a follow-up program is developed and implemented.</li></ul></div>
The Proponent	<div><ul style="list-style-type: none"><li>• provides, at the mediator's request, background information and detailed project proposal;</li><li>• participates in the mediation process;</li><li>• follows all conditions imposed by the RA, such as those related to the implementation of mitigation measures and a follow-up program, should the project proceed.</li></ul></div>
The Mediator	<div><ul style="list-style-type: none"><li>• oversees and manages the mediation process;</li><li>• may allow additional interested parties to participate;</li><li>• prepares and submits a report to the Minister and to the RA.</li></ul></div>

**Table 2-1 (cont'd)**

The Agency	<ul style="list-style-type: none"> <li>recommends to the Minister whether mediation is an appropriate option;</li> <li>provides advice to the Minister at all steps of the mediation process,</li> <li>provides administrative support to the mediator, as required;</li> <li>maintains a public registry for the project from the appointment of the mediator, until the mediator's report is submitted to the Minister and the RA;</li> <li>provides procedural advice to the RA and other participants, as required.</li> </ul>
The Minister	<ul style="list-style-type: none"> <li>determines whether mediation is appropriate;</li> <li>establishes the terms of reference for the mediator, including the scope of the project, the scope of the assessment, and the scope of the factors to be considered, after consulting with the RA and other participants;</li> <li>appoints a mediator, after consulting with the RA and other interested parties;</li> <li>receives the mediator's report and makes it available to the public;</li> <li>refers all or part of the project to a panel review if the parties are unable to reach an agreement in mediation, or when one party to the mediation process decides against continuing the process.</li> </ul>
Expert Federal Departments	<ul style="list-style-type: none"> <li>make expert information or knowledge available;</li> <li>participate in the mediation process, when required;</li> <li>must not provide federal support to the project until the EA has been completed.</li> </ul>
Other Federal Authorities	<ul style="list-style-type: none"> <li>must not provide federal support to the project until the EA has been completed.</li> </ul>
The Public	<ul style="list-style-type: none"> <li>representatives of parties having an interest in the project may participate in the mediation.</li> </ul>

**Table 2-2**  
**Roles and Responsibilities of Participants**  
**in a Panel Review**

The RA •	<ul style="list-style-type: none"> <li>• must not provide federal support to the project until completion of the EA;</li> <li>• ensures that an environmental impact statement (EIS) is prepared in accordance with the guidelines established by the panel (if the screening report or comprehensive study report has not been prepared, or if additional information is requested);</li> <li>• ensures that any information deficiencies in the EIS, identified by the panel, are addressed by the proponent;</li> <li>• participates in the panel's public hearings;</li> <li>• maintains a public registry from the time the panel's report has been submitted to the Minister and the RA until the completion of any follow-up program;</li> <li>• determines, based on the recommendations of the panel, whether it may provide federal support to the project;</li> <li>• provides public notice of the course of action, including the extent to which the recommendations of the review panel have been adopted;</li> <li>• ensures that all necessary mitigation measures are implemented for any project that is proceeding;</li> <li>• ensures that, when appropriate, a follow-up program is developed and implemented.</li> </ul>
The Proponent	<ul style="list-style-type: none"> <li>• provides, at panel's request, background information and detailed project proposal;</li> <li>• prepares the necessary documentation for the EA (such as the EIS);</li> <li>• participates in the panel's public hearings;</li> <li>• follows any and all conditions imposed by the RA;</li> <li>• implements any mitigation measures and follow-up program.</li> </ul>
The Panel	<ul style="list-style-type: none"> <li>• develops the guidelines for the EIS;</li> <li>• prepares an EIS deficiency statement, if necessary;</li> <li>• provides opportunities for public involvement throughout the panel review;</li> <li>• convenes public hearings;</li> <li>• reviews the EIS;</li> <li>• prepares and submits a report, with recommendations, to the Minister.</li> </ul>

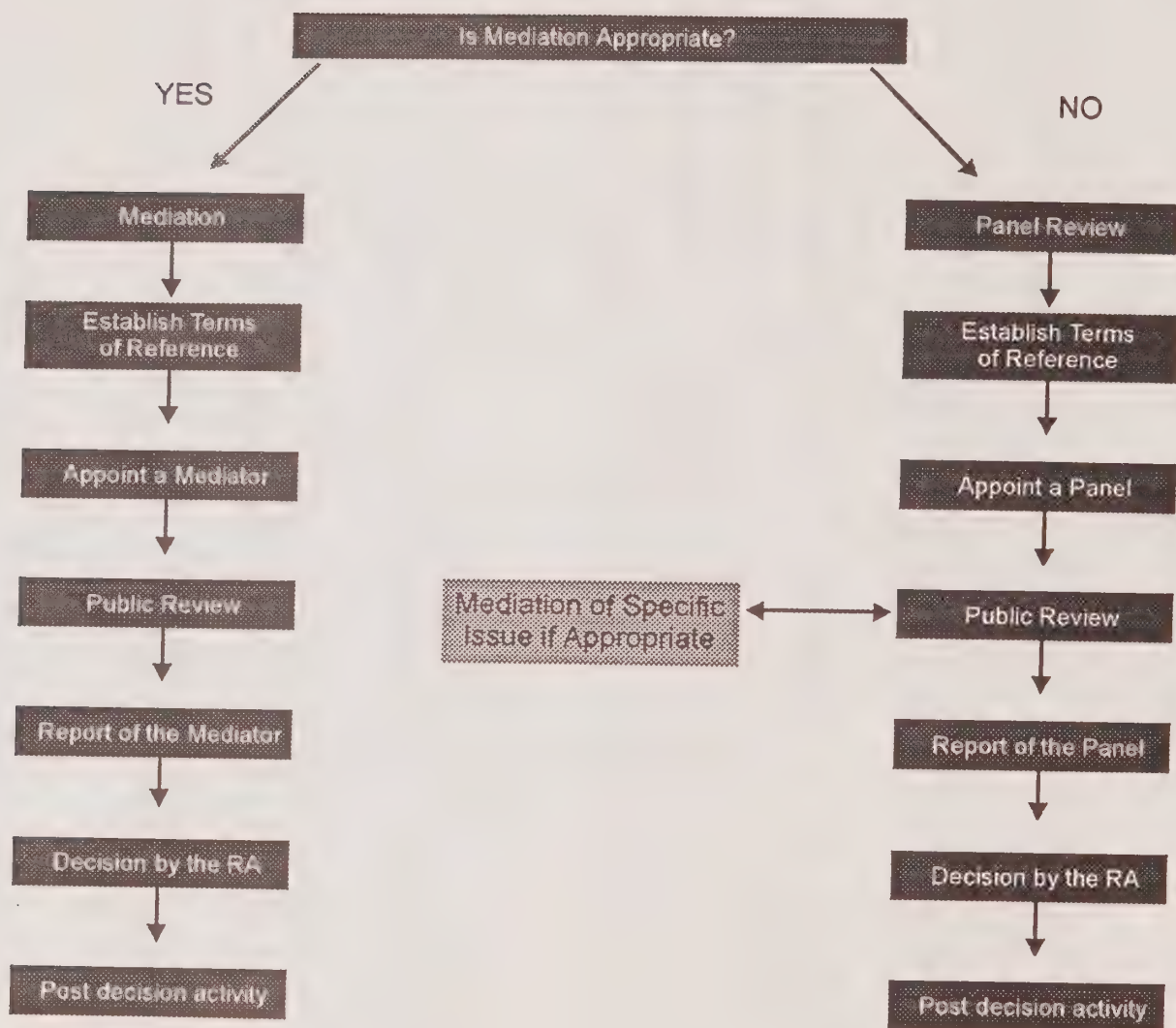


**Table 2-2 (cont'd)**

The Agency	•	provides administrative support and procedural advice to the panel;
	•	maintains a public registry for the project from the appointment of the panel until the panel's report is submitted to the Minister and the RA;
	•	provides financial support to eligible participants through the Participant Funding Program;
	•	provides procedural advice to the RA and other participants, as required;
	•	provides procedural advice to the Minister at all steps of the panel review.
The Minister	•	determines whether a joint panel or substitute process is applicable, if an agreement was not reached in mediation, or if mediation is not appropriate;
	•	establishes the terms of reference for the panel, including the scope of the project, the scope of the assessment, and the scope of the factors to be considered, after consulting with the RA;
	•	establishes a public review panel for the project, if neither a joint panel nor substitute process is applicable;
	•	appoints the chair and panel members, after consulting with the RA;
	•	refers to a mediator, as appropriate, any issue or issues before the panel that may be resolved by mediation;
	•	receives the panel's report and makes it publicly available.
Expert Federal Departments	•	make expert information or knowledge available;
	•	review the EIS;
	•	participate in public hearings as required by the panel;
	•	must not provide federal support to the project until the EA has been completed.
Other Federal Authorities	•	must not provide federal support to the project until the EA has been completed;
	•	may not provide any federal support for a project where an RA has concluded that the project will cause significant adverse environmental effects that cannot be justified in the circumstances.
The Public	•	provide input and comments throughout the panel process;
	•	participate in public hearings convened by the panel.

Figure 2-1:

## Key Steps of the Public Review



### 2.3.1 Step 1: Determining whether mediation is appropriate

The Minister of the Environment determines whether mediation is appropriate for the project. In reaching this determination, the Minister will seek the advice of the RA and the Agency. Key questions in determining the appropriateness of mediation include:

- What are the potential sources of uncertainty or disagreement? For example, do the disputes involve fundamental opposition to the proposed project, technical issues, the determination of environmental effects and their significance, or the effectiveness of mitigation measures?
- Are these disagreements negotiable? Is there room for compromise and consensus?
- Who are the main parties involved?
- Do the parties agree on the areas of uncertainty or disagreement?
- Are there representatives who can speak on behalf of the interests?
- Are the parties willing to participate in mediation?

The RA should inform the Agency as early as possible if it is considering mediation. The Agency can provide guidance in determining appropriate issues for mediation to address as well as in identifying the interested parties and their willingness to participate.

#### *Using a facilitator*

*The RA may want to engage the services of a skilled and impartial facilitator in the pre-mediation step. The facilitator can help all parties decide whether to proceed with a voluntary dispute-resolution process, and, if so, what the nature or ground rules of the process should be. A facilitator can help*

- *identify the sources of uncertainty or disagreement*
- *determine whether the interested parties are willing to give mediation a chance*
- *determine the acceptability of a mediator to all parties*
- *assist in establishing the terms of reference.*

### 2.3.2 Step 2: Establishing terms of reference

The Minister will establish the terms of reference for the mediator or panel review after consulting with the RA and other parties as appropriate. The terms of reference include the scope of the project, the scope of the assessment, the scope of factors to be considered, and appropriate reporting requirements.



The factors that must be considered in a mediation or panel review are the same as those for a comprehensive study:

- the purpose of the project;
- alternative means of carrying out the project as well as the environmental effects of these alternative means;
- the environmental effects of the project, including cumulative environmental effects and the effects of malfunctions or accidents that may occur in connection with the project;
- the effects on the capacity of renewable resources likely to be significantly affected by the project to meet present and future needs;
- the significance of the environmental effects;
- public comments;
- mitigation measures;
- the need for, and requirements of, any follow-up program;
- any other matter relevant to the review, such as the need for and alternatives to the project, that the Minister or RA may require.

If a screening or comprehensive study for the project has been completed, the screening report or comprehensive study report will form the basis of the proponent's EIS for the mediator or panel.

### **2.3.3 Step 3: Appointing a mediator or panel**

#### ***Mediation***

The mediator is appointed by the Minister after consulting with the RA and all those who are to participate in the mediation. The mediator may be appointed from a roster of candidates established by the Minister on the advice of the Agency. The mediator must

- be unbiased and free from any conflict of interest relative to the project;
- have knowledge or experience in acting as a mediator;
- be acceptable to all participants.

A good mediator should also have excellent interpersonal skills, such as the ability to gain and maintain trust, to listen, and to negotiate effectively.

#### ***Panel review***

The Minister, in consultation with the RA, will appoint the chair and other panel members. Members may be chosen from a roster of candidates established by the Minister.

Panel members must

- be unbiased and free from any conflict of interest in the project;
- have knowledge or experience relevant to the anticipated environmental effects of the project.

#### **2.3.4 Step 4: Public review by the mediator or panel**

##### ***Mediation***

Once appointed, the mediator's first task is to work with the RA and interested parties to develop protocols or "ground rules" that will govern the negotiations. For example, protocols may deal with agreements on the roles and responsibilities of the parties and the mediator, and the rules of confidentiality, including reporting back to the representative's group. Other matters to be settled include the timetable for negotiation and the requirements for a public information program.

The parties then turn to the issues and the substantive matters in dispute. The emphasis in mediated negotiations is on working through the substantive issues in an orderly, focused, and creative manner. The mediator must ensure that the discussions do not become unproductive or lapse into confrontational bargaining, and that the participating representatives maintain links with their organizations.

A mediator will typically

- establish an agenda of issues to be discussed;
- identify information requirements, sources of information, and opportunities for joint fact-finding;
- work towards a single negotiating text to focus the discussions;
- present the alternatives for mutual gain, so that important interests are considered and accommodated when formulating proposals (rather than the parties becoming deadlocked over specific issues);
- reach a final agreement with the parties.

##### ***Panel review***

A panel review generally includes

- preparation of guidelines for the EIS;
- preparation of the EIS by the proponent (based on the screening report or comprehensive study report);
- review of the EIS by the panel and public;

- preparation of the EIS deficiency statement, if necessary;
- soliciting of public comments;
- convening of public hearings;
- preparation of a panel report and submission to the Minister and the RA.

The RA is a major participant in the review. It must either prepare or supervise the preparation of the draft EIS, revise it according to the guidelines issued by the panel, and appear before the panel at public hearings to answer questions.

Public involvement is a key characteristic of the panel review. Panel hearings must be public, unless the panel is satisfied that specific, direct, and substantial harm would be caused to the witness by a public hearing.

A panel may call any person as a witness and order the witness to give evidence and produce any documents or other materials the panel considers necessary for conducting its EA. The panel's summons can be enforced by turning it into an order of the Federal Court of Canada.

### **2.3.5 Step 5: Report of the mediator or panel**

#### ***Mediation***

The mediator submits a report to the Minister and the RA at the conclusion of the mediation, whether or not an agreement has been reached. The report must not divulge any confidential information, and should be limited to a brief record of any agreements and outstanding issues. The report should include an analysis of differences among the parties only if the parties have reviewed and approved the report.

Upon receiving the mediator's report, the Minister must give public notice that the report is available, stating how copies may be obtained.

The nature and effect of the mediator's report changes depending on whether the participants were able to reach an agreement. If an agreement was reached, the mediator's report becomes the final EA report for the project, and the RA takes appropriate action.

If agreement was not reached, the mediator's report becomes, in effect, the starting point for a panel review.



## ***Panel review***

The panel's report must set out

- the rationale, conclusions, and recommendations of the panel, including any mitigation measures and follow-up program;
- a summary of public comments.

Once the report is submitted to the Minister and the RA, the work of the panel is completed. The Minister must advise the public that the report is available, and state how copies may be obtained.

### **2.3.6 Step 6: Decision by the responsible authority**

When the mediation or panel review is completed, the RA must decide whether it may provide federal support to the project (that is, whether to proceed as proponent, or to grant the funds, licence, or interest in lands needed by the project). The RA's decision must take into consideration the report of the mediator or panel.

The RA may provide federal support to the project if, taking into account appropriate mitigation measures,

- the project is not likely to cause significant adverse environmental effects; or
- the project is likely to cause significant adverse environmental effects that can be justified in the circumstances.

The RA must not, however, provide federal support to the project if the project is likely to cause significant adverse environmental effects that cannot be justified. In this case, as well, other federal authorities may not provide any support for the project.

If the RA is the proponent, then its decision will determine the fate of the project. If this is not the case, the withholding of federal funds, interest in land, or authorization by the RA may force the proponent to abandon the project. In other cases, the proponent may be able to proceed without the federal action.

Table 2-3 summarizes the RA's possible conclusions and corresponding courses of action, taking into account the report of the mediator or panel.

**Table 2-3**  
**Possible Courses of Action by RA**  
**following a Public Review**

**RA's Conclusion**

1. The project is not likely to cause significant adverse environmental effects, or it has the potential to cause significant adverse environmental effects that can be prevented or significantly reduced by mitigation measures.

2. The project is likely to cause significant adverse environmental effects and these effects can be justified in the circumstances.

3. The project is likely to cause significant adverse environmental effects and these cannot be justified in the circumstances.

**RA's Action**

May exercise any power or perform any duty or function that would allow project to proceed

Must ensure implementation of mitigation measures

May exercise any power or perform any duty or function that would allow project to proceed

Must ensure implementation of mitigation measures

May not exercise any power or perform any duty or function that would allow project to proceed.

### 2.3.7 Step 7: Post-decision activity

The final step in the public review process addresses the RA's obligations following the completion of a mediation or panel review and its determination about whether to provide federal support to the project. These obligations are identical to those in a comprehensive study, and fall into three categories:

- providing public notice about the course of action;
- determining whether a follow-up program is appropriate;
- ensuring the implementation of any appropriate mitigation measures.

#### ***Public notice***

If it does provide federal support to the project, however, the RA must advise the public of the following:

- the RA's course of action;
- any mitigation measures to be implemented with respect to the project's adverse environmental effects;
- the extent to which the recommendations of the mediator or review panel were adopted, along with the reasons for rejecting any of them;
- any follow-up program that is implemented;
- any results of the follow-up program.

The type of public notice should be appropriate to the circumstances of the project and reflect the public involvement effort that has been undertaken. All documents should be included in the public registry.

As in the case of public notices after a self-directed EA, the RA's obligation to advise the public of the above information is a service designated for the use, benefit and information of the public. As a result, an RA has responsibilities to communicate this information to the public in accordance with the *Official Languages Act (OLA)*.

The public notice must be in both official languages when the EA is administered in an area designated as bilingual. These designations include:

- the RA's head office, which, as the central office of a federal institution, is designated bilingual under the *OLA*;
- an office or facility located within the National Capital Region;
- an office or facility located in a region designated as bilingual under the *OLA* under Treasury Board's "significant demand" criterion.



Written notices may be bilingual, or produced in separate but equal versions. In the case of the latter, each version must clearly indicate the availability of the information in the other official language.

### ***Follow-up program***

The report of the mediator or review panel may recommend that the RA develop and implement a follow-up program. Under the Act, a follow-up program should

- verify the accuracy of the EA; and/or
- determine the effectiveness of any mitigation measures that have been implemented.

The RA is not obliged to follow the recommendation for a follow-up program, but if it does not, it must justify the decision publicly. RAs should keep in mind that the report from a mediator or panel is the product of an open, fair, and rigorous review involving all key interests, and that the report's recommendations cannot be treated lightly.

A critical question in determining the need for a follow-up program is one of **uncertainty or unfamiliarity** -- in either the analysis and predictions of the EA, or in the mitigation measures. The RA must consider, for example, whether a new modelling technique or an untried mitigation measure introduces a level of uncertainty into the project and, if so, whether there are corresponding risks of an inaccurate analysis or ineffective mitigation measure.

#### ***When a follow-up program may be appropriate***

*The RA should develop a follow-up program for a project when the circumstances warrant. Examples include situations where*

- *the project involves a new or unproven technology*
- *the project involves new or unproven mitigation measures*
- *an otherwise familiar or routine project is proposed for a new or unfamiliar environmental setting*
- *the assessment's analysis was based on a new assessment technique or model, or there is otherwise some uncertainty about the conclusions*
- *project scheduling is subject to change such that environmental effects could result*

### ***Mitigation measures***

If the RA has determined that it may provide federal support to the project, and that the proponent is proceeding, then it must ensure that all appropriate mitigation measures are implemented.

RAs have powers other than those given under the Act that will allow them to ensure implementation of mitigation measures -- for example, through the issuance of permits, the holdback provisions of funding arrangements, and contractual arrangements. The RA determines the most appropriate means of ensuring implementation of any mitigation measures.

#### ***Examples of ensuring compliance with mitigation measures***

- *compliance statement or conditions of approval in contract with project proponent*
- *performance bond by proponent*
- *site visits*

## **2.4 The Public Review Checklists**

Tables 2-4 and 2-5 provide checklists for RAs of the key obligations under the Act in mediation and panel reviews, respectively.

**Table 2-4**  
**Mediation Checklist**

		Y	N
1.	Are the sources of uncertainty or disagreement clear?	<input type="radio"/>	<input type="radio"/>
2.	Are the uncertainties or disagreements negotiable?	<input type="radio"/>	<input type="radio"/>
3.	Is it clear who the interested parties are?	<input type="radio"/>	<input type="radio"/>
4.	Are there representatives who can speak on behalf of these parties?	<input type="radio"/>	<input type="radio"/>
5.	Are the parties willing to participate in mediation?	<input type="radio"/>	<input type="radio"/>
6.	Is the number of parties to a potential mediation manageable?	<input type="radio"/>	<input type="radio"/>
7.	Have the representatives of the RA and proponent been identified?	<input type="radio"/>	<input type="radio"/>
8.	Has the Agency been informed about the possibility of a mediation?	<input type="radio"/>	<input type="radio"/>
9.	Is a facilitator needed to help determine the feasibility of mediation and develop draft terms of reference?	<input type="radio"/>	<input type="radio"/>
10.	Do the mediator and other participants require background information in order to participate effectively?	<input type="radio"/>	<input type="radio"/>
11.	Has the RA decided on a course of action, taking into account the mediator's report?	<input type="radio"/>	<input type="radio"/>
12.	Once the RA has made a decision, has public notice been provided in the public registry?	<input type="radio"/>	<input type="radio"/>
13.	Is any other public notice required?	<input type="radio"/>	<input type="radio"/>
14.	Have the mediator's recommendations been adopted?	<input type="radio"/>	<input type="radio"/>
15.	Has the public been informed of the extent to which the mediator's recommendations have been adopted and the reasons why any recommendations were not adopted?	<input type="radio"/>	<input type="radio"/>
16.	Are there mitigation measures to implement?	<input type="radio"/>	<input type="radio"/>
17.	If yes, are plans in place to ensure implementation?	<input type="radio"/>	<input type="radio"/>
18.	Is a follow-up program appropriate?	<input type="radio"/>	<input type="radio"/>
19.	If yes, has one been designed?	<input type="radio"/>	<input type="radio"/>
20.	Has the public registry been maintained up to the appointment of the mediator, and again from the time that the mediator's report was submitted?	<input type="radio"/>	<input type="radio"/>



**Table 2-5**  
**Panel Review Checklist**

		Y	N
1.	Have the significant public concerns been identified?	<input type="radio"/>	<input type="radio"/>
2.	Has mediation been attempted?	<input type="radio"/>	<input type="radio"/>
3.	Are there outstanding issues that mediation is not able to resolve?	<input type="radio"/>	<input type="radio"/>
4.	Has the screening report or comprehensive study report been submitted to the Agency as an EIS?	<input type="radio"/>	<input type="radio"/>
5.	Has the panel identified deficiencies in the EIS that need to be addressed?	<input type="radio"/>	<input type="radio"/>
6.	Have the relevant sources of information been identified to meet these deficiencies?	<input type="radio"/>	<input type="radio"/>
7.	Is there a need to obtain information from expert federal authorities?	<input type="radio"/>	<input type="radio"/>
8.	Is there a need to obtain information from the public?	<input type="radio"/>	<input type="radio"/>
9.	Is there a need to obtain information from the other levels of government?	<input type="radio"/>	<input type="radio"/>
10.	Have the representatives of the RA and proponent who will participate in the panel's public hearings been identified?	<input type="radio"/>	<input type="radio"/>
11.	Has the RA decided on a course of action, taking into account the panel's report?	<input type="radio"/>	<input type="radio"/>
12.	Has public notice been provided of the RA's course of action?	<input type="radio"/>	<input type="radio"/>
13.	Have the panel's recommendations been adopted?	<input type="radio"/>	<input type="radio"/>
14.	Has the public been informed of the extent to which the panel's recommendations have been adopted and the reasons why any recommendations were not adopted?	<input type="radio"/>	<input type="radio"/>
15.	Does the project require any mitigation measures, and if yes, are plans in place to ensure implementation?	<input type="radio"/>	<input type="radio"/>
16.	Is a follow-up program appropriate?	<input type="radio"/>	<input type="radio"/>
17.	If yes, has one been designed?	<input type="radio"/>	<input type="radio"/>
18.	Has the public registry been maintained for the project after the panel's report was submitted to the Minister and the RA?	<input type="radio"/>	<input type="radio"/>





## APPENDICES



## Appendices\*

- A. The Law List
- B. Exclusion List for Undertakings in Relation to a Physical Work
- C. Inclusion List for Physical Activities Not Relating to a Physical Work
- D. Comprehensive Study List

(\* Note: these appendices will be provided upon proclamation of the Act and its enabling regulations)

## **PART III: REFERENCE GUIDES**





**A Reference Guide  
for the  
Canadian Environmental  
Assessment Act**

**Addressing Cumulative  
Environmental Effects**

Prepared by the  
Federal Environmental Assessment  
Review Office

November 1994



# Reference Guide: Addressing Cumulative Environmental Effects

## 1. Introduction

This reference guide describes an approach for addressing cumulative environmental effects under the *Canadian Environmental Assessment Act* (Act). It is one of several reference guides intended to provide the supporting documentation for the *Responsible Authority's Guide to the Canadian Environmental Assessment Act* prepared by the Federal Environmental Assessment Review Office (FEARO). All of the reference guides are complimentary to the *Responsible Authority's Guide to the Canadian Environmental Assessment Act* but go into more detail on individual issues. Specifically, this reference guide:

- reviews the concept of cumulative environmental effects;
- discusses the relevant requirements of the Act;
- outlines some general considerations;
- proposes a framework for addressing cumulative environment effects under the Act; and
- provides a list of key references on the subject.

As the practice of environmental assessment evolves, it will be necessary to update and revise both the *Responsible Authority's Guide to the Canadian Environmental Assessment Act* and the individual reference guides. These guides should be seen as evolving documents rather than as static textual materials. Any suggestions for updates or revisions should be directed to:

Director  
Process Development  
Policy and Regulatory Affairs  
Federal Environmental Assessment Review Office  
14th Floor, Fontaine Building  
200 Sacré-Coeur Boulevard  
Hull, Québec  
K1A 0H3

## 2. The Concept of Cumulative Environmental Effects

The concept of cumulative environmental effects recognises that the environmental effects of individual human activities can combine and interact with each other to cause aggregate effects that may be different in nature or extent from the effects of the individual activities. Ecosystems cannot always cope with the combined effects of human activities without fundamental functional or structural changes.

Examples of cumulative environmental effects include the incremental loss of prairie wetlands caused by agricultural practices, the degradation of Great Lakes water quality by persistent toxic chemicals, global warming caused by the build-up of green house gases in the upper atmosphere, and loss of biodiversity.

For the purposes of this reference guide, cumulative environmental effects can be defined as:

*The effect on the environment which results from effects of a project when combined with those of other past, existing and imminent projects and activities. These may occur over a certain period of time and distance.*

Over the last few years, the assessment and management of cumulative environmental effects has become a critical issue in Canadian environmental policy. Although the importance of cumulative environmental effects is undeniable, current assessment and management techniques do not always predict or control them adequately. Since cumulative environmental effects originate at the level of individual development projects, it makes sense to introduce the concept into environmental assessment.

Cumulative environmental effects should not be seen as a new type of environmental effect. The concept is simply a recognition of the complex ways in which the effects of individual projects and activities interact and combine with each other over time and distance. Thus, to address cumulative environmental effects in environmental assessments requires no more than *thinking cumulatively*. This means considering:

- The temporal and geographic boundaries of the assessment; and
- The interactions among the environmental effects of the project, and past and future projects and activities.

To a limited extent, federal and other environmental assessments already address cumulative environmental effects. For example, most examine the *baseline* environmental conditions, which include the cumulative environmental effects of past and existing projects and activities. However, consideration should also be given to the cumulative environmental effects resulting from the interactions among the environmental effects of the proposed project with those of future projects and activities.



### 3. Cumulative Environmental Effects and the Canadian Environmental Assessment Act

Cumulative environmental effects, and a determination of the significance of such effects, are a key component of every environmental assessment conducted under the Act. Subsection 16(1) of the Act states:

*"Every screening or comprehensive study of a project and every mediation or assessment by a review panel shall include a consideration of the following factors:*

- (a) the environmental effects of the project, including . . . and any cumulative environmental effects that are likely to result from the project in combination with other projects or activities that have been or will be carried out;*
- (b) the significance of the effects referred to in paragraph (a) "*

Although the Act does not define cumulative environmental effects, it provides some guidance on what should be addressed. First, it is clear that only environmental effects, as defined in the Act, can be considered cumulatively. Subsection 2(1) of the Act defines "environment" as:

*the components of the Earth, and includes*

- (a) land, water and air, including all layers of the atmosphere,*
- (b) all organic and inorganic matter and living organisms, and*
- (c) the interacting natural systems that include components referred to in paragraphs (a) and (b) above*

and "environmental effect" as:

- (a) any change that the project may cause in the environment, including any effect of any such change on health and socio-economic conditions, on physical and cultural heritage, on the current use of lands and resources for traditional purposes by aboriginal persons, or on any structure, site or thing that is of historical, archaeological, paleontological or architectural significance, and*
- (b) any change to the project that may be caused by the environment, whether any such change occurs within or outside Canada.*

Thus, the assessment of cumulative environmental effects must consider:

- changes in the environment caused by the project;
- the effects of any such changes on:

- health and socio-economic conditions;
- physical and cultural heritage;
- current use of lands and resources for traditional purposes by aboriginal persons; or
- any structure, site, or thing that is of historical, archaeological, paleontological, or architectural significance
- any change to the project caused by the environment.

For example, a socio-economic effect (such as job losses) could be considered as a cumulative environmental effect only when it is caused by a change in the environment, as defined in the Act (such as loss of fish habitat) caused by a project. If the job losses are caused by something else (such as a re-allocation of funding caused by the project), they cannot be addressed as cumulative environmental effects.

Second, the Act states that environmental assessments must consider the cumulative environmental effects that are likely to result from the project in combination with other projects or activities. Thus, it is necessary to decide which projects and activities will be addressed. In this regard, the Act defines a "*project*" as:

*"(a) in relation to a physical work, any proposed construction, operation, modification, decommissioning, abandonment or other undertaking in relation to that physical work, or*

*(b) any proposed physical activity not relating to a physical work that is prescribed or is within a class of physical activities that is prescribed pursuant to regulations made under paragraph 59(b)"*  
(subsection 2(1)).

"*Activities*", however, are not defined in the Act, but could include any human activity considered to be relevant to the assessment, for example, fishing or hunting near the project.

Third, the Act states "*in combination with*" other projects and activities. To be assessed, then, the effects must result, at least in part, from the project, and only

those environmental effects of other projects and activities that accumulate or interact with the environmental effects of the project in question should be included in the assessment. If the environmental effects of other past or future projects are not likely to act in combination then they should not be included in the cumulative environmental effects assessment of the project.

For example, if the construction of a bridge affects the fish population in the river it traverses, then other stressors on that same fish population, such as those from a nearby mill could be included in the project EA.

Fourth, the Act states that projects or activities that have been *or will be* carried out must be considered. As mentioned above, many environmental assessments already consider the cumulative environmental effects of the project in combination with those of past and existing projects. What is new is that the environmental effects of projects or activities *"that will be carried out"* must now be examined in combination with the environmental effects of the project being proposed. This implies that, at a minimum, (only) projects or activities that have already been approved must be taken into account. The environmental effects of uncertain or hypothetical projects or activities need not be considered. Nevertheless, it would be prudent to consider projects or activities that are in a government approvals process as well. Environmental assessments can take a long time to complete, and approvals for other projects and activities may be given during the assessment of the project in question.

Where projects and activities are not subject to a formal government approvals process but are relevant to the assessment (for example pesticide spraying), they should also be considered if there is a high level of certainty that they will occur. It should be noted that this interpretation of future projects and activities will, in most cases, preclude consideration of a project's growth inducing potential.

When there is insufficient information on future projects or activities to assess their cumulative environmental effects with the project being proposed, best professional judgement should be used. It is not necessary to predict the environmental effects of future projects and activities in detail, but to the extent that is feasible and reasonable under the circumstances. For example, if a plan for a future project has been approved, but the design details and hence the environmental effects are not yet known, then, it is sufficient to give a general idea of the types of cumulative environmental effects that are anticipated.

Fifth, the Act recognises that not everything can be known about how the environmental effects of other projects or activities will combine with the environmental effects of the project. It says *"cumulative environmental effects that are likely"*. Only *likely* cumulative environmental effects need to be considered.

Finally, paragraph 16(1)(b) of the Act requires that every screening, comprehensive study, mediation and assessment by a review panel consider the significance of the environmental effects including cumulative environmental effects. See the document entitled, *Determining Whether a Project is Likely to Cause Significant Adverse*



*Environmental Effects, A Reference Guide for the Canadian Environmental Assessment Act* (available from FEARO).

These six points provide a basis for considering which cumulative environmental effects should be addressed in federal environmental assessments.

The Act also requires that a class screening report must be adjusted to take into account any cumulative environmental effects not otherwise addressed:

*"Where a responsible authority uses or permits the use of a class screening report, it shall ensure that any adjustments are made to the report that are necessary to take into account local circumstances and any cumulative environmental effects that may result from the project in combination with other projects or activities that have been or will be carried out" [subsection 19(5)].*

When a class screening report is used for a particular project within the class, the report must be revised to address any cumulative environmental effects specific to that project.

## **4. General Considerations**

### **4.1 Advice and Consultation**

To assess cumulative environmental effects, relevant individuals, organisations and government departments and agencies should be consulted. The extent of advisory and consultation activities will depend on the nature of the project; however, the following points should be considered:

- expert departments, regional inter-departmental environmental assessment committees, and other similar committees could be used as a source of advice and information about past and future projects and activities and their cumulative environmental effects;
- when seeking advice or conducting a consultation, specific questions about the cumulative environmental effects of past and future projects and activities should be asked;
- advice and consultation will be particularly helpful to assess the cumulative environmental effects of the project on socio-economic conditions;
- multi-stakeholder, multi-disciplinary and inter-departmental consultation, when appropriate will allow discussion of a broad range of issues and facilitate access to all relevant scientific, community and traditional information and knowledge.

## 4.2 Documentation

The consideration and analysis of cumulative environmental effects should be adequately documented in the assessment report. This could be done in two ways:

- as a separate section summarizing the methodological approach taken and the result of the analysis; or
- as an integral part of the analysis.

In many cases, it would be relevant to consider cumulative effects as an integral part of the analysis and still have a separate section to summarize the likely cumulative environmental effects or to discuss particular cumulative effects issues or analysis.

Consideration of cumulative effects can be reflected in the scope of assessment, the methodological approach taken for the analysis, the results of the analysis, the mitigation measures and the follow-up program.

In routine screening reports using matrices or check lists, it may be sufficient to add a section on cumulative environmental effects or provide elements that would identify:

- the interaction and combination of the effects of the project; and
- the interaction and combination of the effects of the project with other past and imminent projects and activities.

## 4.3 Uncertainty

There will always be some uncertainty associated with any environmental assessment. Uncertainty could be related to scientific methods and techniques, data availability and accuracy, new or unproven technology, new or unfamiliar environmental setting, etc.

Another source of uncertainty when assessing the cumulative environmental effects of a project, is in relation to future projects. For example, what future projects should be considered in the assessment? When will that project actually proceed? Plans may be revised, cancelled or delayed at any time, even after all necessary government approvals have been obtained. In fact, many "approved" projects do not proceed for economic, technical or other reasons. The decision to include or exclude a future project from the environmental assessment should be based on the "weight of evidence", i.e. are there strong indications that a project will proceed? (See Appendix "A" for further guidance).

When the details of future projects, (e.g. design, technology, mitigation measures) are unknown or the information is not accessible, it adds to the uncertainty about the environmental effects of future projects and how these effects will interact with those of the project in question. Available information and best professional

knowledge and judgement should be used. In most cases, only qualitative assessments of cumulative environmental effects will be possible.

Any uncertainty, whether it arises from information gaps, selected methods, etc., should be explicitly stated in the assessment report.

#### **4.4 Level of Effort**

When assessing cumulative environmental effects, it is important to ensure that the level of effort is appropriate to the scope of the project and its anticipated effects. The effort in assessing the cumulative environmental effects of a small project with little anticipated effects, such as a routine dredging operation, is obviously much less than that necessary to assess the cumulative environmental effects of a *mega-project* with likely significant effects on the environment.

### **5. Framework for Addressing Cumulative Environmental Effects in Federal Environmental Assessments**

The following framework outlines how cumulative environmental effects can be considered at each stage of an environmental assessment.

#### **Step 1 Scoping**

- Identify the environmental effects to be considered
- Identify likely cumulative environmental effects
- Set appropriate geographic and temporal boundaries

#### **Step 2 Analysis**

- Assess the status of the receiving environment
- Assess the cumulative environmental effects of the project
- Assess the cumulative environmental effects of the project in combination with future projects and activities

#### **Step 3 Mitigating**

- Identify mitigation measures for cumulative environmental effects

#### **Step 4 Determining Significance**

- Consider existing environmental standards, guidelines and objectives
- Where possible, consider the carrying capacity, tolerance level or assimilative capacity of the natural system(s)



## Step 5 Follow-up

- Evaluate the accuracy of the assessment of cumulative environmental effect
- Evaluate the effectiveness of mitigation measures for cumulative environmental effects

### 5.1 Step 1: Scoping

The assessment of cumulative environmental effects largely depends on effective scoping, i.e. setting the boundaries of the assessment and focus of the analysis. This section describes how to ensure that the cumulative environmental effects are adequately scoped, as part of scoping the factors to be considered in the assessment.

Scoping should include:

- identifying environmental effects to be considered;
- identifying likely cumulative environmental effects within those limits;
- setting the spatial and temporal boundaries for the assessment.

#### Identifying the environmental effects to be considered

Please refer to Section 1.4 of the RA's Guide for information on identifying environmental effects.

#### Identifying likely cumulative environmental effects

In identifying the cumulative environmental effects that are likely to result from a project in combination with other projects or activities that have been or will be carried out, the following factors must be considered:

- the environmental effects resulting from the project;
- the environmental effects of past and existing projects and human activities which may interact with those of the project;
- the likely environmental effects of future projects and human activities in the area. There is often a degree of uncertainty related to which environmental effects from which future projects and activities should be included in the assessment. The Act states that projects and activities that "*will be carried out*" must be considered. At the minimum, projects and activities that have been approved should be included in the assessment. Further guidance on this matter is provided in Appendix "A".

All relevant types of future projects and activities for which the environmental effects are likely to act in combination with the environmental effects of the project (i.e., not just those in the same resource sector as the project) should be considered.

For example, an environmental assessment for a hydro-electric project should consider

- the potential environmental effects of the project; e.g. changes in the water level and flow patterns, disturbance of fish habitats.
- the environmental effects of relevant past and existing projects and activities; e.g. another paper mill discharging chlorine upstream may also be affecting the fish population; a dam located upstream affects the water level and flow patterns and consequently fish habitats.
- future projects and activities; e.g. a proponent has recently received a permit to extend a marina; another proponent is considering the exploitation of a gravel pit situated one kilometer upstream but has not yet applied for any permit. The former project should be considered further in the assessment while the latter may be excluded because there is little evidence that it will proceed. Effects from the marina that could be included in the assessment are limited to those that can be shown to interact with those of the hydro-electric project.

Possible sources of existing information on past, existing and future projects and activities include:

- federal, provincial and municipal government departments and agencies, especially land use planners and environmental staff;
- the public registry under the Act;
- registries or files of environmental assessments maintained by provincial departments and/or agencies;
- project owners and/or operators;
- local academic and research institutions;
- local residents and community and environmental groups;

- environmental reports;
- land use maps, air photos, and satellite images;
- records of official plan or zoning by-laws;
- fire insurance maps;
- local chambers of commerce;
- assessment records; and
- industrial directories.

### Setting the Spatial and Temporal Boundaries

Defining the spatial and temporal boundaries establishes a frame of reference for assessing cumulative environmental effects and facilitates their identification. Such boundaries can also influence the assessment in a variety of ways. If large boundaries are defined, only a superficial assessment may be possible and uncertainty will increase. If the boundaries are small, a more detailed examination may be feasible but an understanding of the broad context may be sacrificed. Proponents may perceive assessments with large boundaries as onerous or unfeasible, whereas the public may think small boundaries do not adequately encompass all of the project's environmental effects. Also:

- Different boundaries may be appropriate for different cumulative environmental effects. For example, the boundaries selected for cumulative environmental effects on air quality might be quite different than those chosen for effects on a particular wildlife species;
- Spatial boundaries should extend beyond a project's immediate site to include the area likely to be affected;
- Temporal boundaries may extend beyond the timing of construction and operation to include the period of occurrence of the effects.

Spatial and temporal boundaries should be established using the following criteria (listed in order of importance):

- The size and nature of the project and its potential effects;
- The availability of existing data and knowledge about the project and its environmental effects and the feasibility of collecting new data and knowledge if there are data or knowledge gaps;



- The size, nature and location of past and future projects and activities in the area, and the significance of their adverse environmental effects;
- Relevant ecological boundaries, including physiography, vegetation, land use, habitat, soil and surface materials and climate;
- Relevant aquatic boundaries, including watersheds, sub-watersheds, drainage basins, and hydrogeological discontinuities; and
- Relevant jurisdictional boundaries, including municipal, county, township or regional boundaries.

For assessments considering effects in aquatic environments, watershed, sub-watershed or sub-sub-watershed boundaries are often used.

Most importantly, the boundaries of an assessment should be reasonable. In many cases, it will be appropriate to consult with the affected public in making this determination. Obviously, the form of such consultation will depend on the size and nature of the project and its environmental effects. When screening small projects, it may be sufficient to discuss the boundaries with a few relevant people. For public reviews of large projects, it may be necessary to consider the matter at one or more public scoping sessions. Whatever boundaries are set, they may influence the determination of significance, because a cumulative environmental effect may be very significant locally, but of little significance regionally.

## 5.2 Step 2: Analysis

The objective of the analysis is to identify the environmental effects of a project and determine the significance of these effects. It is only when a project's effects are known and understood that it is possible to determine and implement effective mitigation measures, and to make an informed decision about supporting the project.

Analysis should include an assessment of:

- the status of the receiving environment, including its important characteristics and other stressors (e.g. how have past projects and activities affected or stressed the environment)?
- the cumulative environmental effects of the project, including:

- interactions among effects the project may cause in the environment, such as those between effects on water quality and effects on fish resulting from sedimentation and destruction of the shoreline vegetation cover;
- interactions among any effects on:
  - health and socio-economic conditions;
  - physical and cultural heritage;
  - current use of lands and resources for traditional purposes by aboriginal persons;
  - any structure, site or thing that is of historical, archaeological, paleontological or architectural significance, caused by changes in the environment; and
- interactions among changes to the project caused by the environment.

As well, a consideration of the *combined* environmental effects of all aspects of the project should be included. For example, if the creation of a dam is dividing a small community into two parts and affecting fish and wildlife used for subsistence activities, the interaction and total sum of these effects on the community should be assessed.

As with environmental assessment in general, there is no one approach or methodology for all assessments of cumulative environmental effects. Different circumstances, such as location of project and type of potential environmental effects will dictate appropriate methodologies. Modelling, expert systems and geographic information systems are being increasingly used. However, where information is lacking, qualitative approaches and *best professional judgement* are used.

An environmental assessment of low level air defense training in New Brunswick evaluated the potential interactions among the various components of the project and the identified *valued ecosystem components*. Interactions were assessed using a rating system to indicate the magnitude, duration, geographic extent and probable frequency of occurrence of expected interactions.

### 5.3 Step 3: Mitigation

Prior to determining the significance of any cumulative environmental effects, the need for technically and economically feasible mitigation measures that could reduce or eliminate the effects should be considered [paragraph 16(1)(d)].

Mitigation measures could include:

- avoiding sensitive areas such as fish spawning areas or areas known to contain rare or endangered species;
- adjusting work schedules to minimise disturbance;
- engineered structures such as berms and noise attenuation barriers;
- pollution control devices, such as scrubbers and electrostatic precipitators; and
- changes in manufacturing, process, technology, use, or waste management practices, such as substituting a hazardous chemical with a non-hazardous one, or the re-cycling or re-use of waste materials.

Cumulative environmental effects identified in a screening of a pulpwood agreement in B.C. were mitigated by adjusting the rate-of-cut, constructing streamside buffers and varying the cut block size.

### 5.4 Step 4: Determining the Significance of the Effects

After taking into account any appropriate mitigation measures, the likelihood and significance of the cumulative environmental effects must be determined. Relevant environmental standards, guidelines and objectives, such as the Canadian Water Quality Guidelines, should be helpful in the determination of significance. As well, it may be helpful to consider the carrying capacity, tolerance level or assimilative capacity of the area, even though it may not be possible to quantify them.

The determination of significance consists of three general steps:

- |         |   |
|---------|---|
| Step 1: | Deciding Whether the Environmental Effects are Adverse                    |
| Step 2: | Deciding Whether the Adverse Environmental Effects are Significant        |
| Step 3: | Deciding Whether the Significant Adverse Environmental Effects are Likely |



Criteria for determining the adversity, likelihood and significance of environmental effects are discussed in a separate document entitled *Determining Whether a Project is Likely to Cause Significant Adverse Environmental Effects, A Reference Guide for the Canadian Environmental Assessment Act* (available from FEARO). These criteria should be used in making this determination for cumulative environmental effects.

The key difference between determining the significance of environmental effects and determining the significance of *cumulative* environmental effects is the influence of other projects and activities. Thus, the incremental cumulative environmental effects of certain projects may be deemed to be significant, when considered in the broader context of the effects of other projects and activities.

The significance of cumulative environmental effects of a project may depend on the existing condition of the environment. For example, the cumulative environmental effects of a hydro-electric dam in an area of rare mixed prairie grassland, already degraded by past activities, may be significant, whereas in another type of ecosystem they may not.

### 5.5 Step 5: Follow-up

In the case of comprehensive studies, mediations and panel reviews, the need for a follow-up program should be considered as part of the assessment. A follow-up program should monitor:

- The accuracy of the environmental assessment with regard to its assessment; and/or
- The effectiveness of any mitigation measures.

A follow-up program to monitor cumulative environmental effects may be appropriate when:

- The project is likely to cause new or different cumulative environmental effects;
- The project involves new or unproven mitigation measures whose ability to reduce cumulative environmental effects is uncertain;
- An otherwise familiar or routine project is proposed for a new or unfamiliar environmental setting;

- Where there is some uncertainty about the conclusions of the assessment of cumulative environmental effects;
- Project scheduling or operational details are subject to change such that the cumulative environmental effects could be different from those described in the EA.

Follow-up programs should take account of using and/or supplementing existing programs that monitor cumulative environmental effects.

## **6. Further Reading**

### **6.1 General References**

Canadian Environmental Assessment Research Council. 1986. Cumulative Environmental Effects: A Binational Perspective. Canadian Environmental Assessment Research Council. Hull, Quebec.

Irwin, F. and Rodes, B. 1991. Making Decisions on Cumulative Environmental Impact: Conceptual Framework. World Wildlife Fund. Washington, D.C.

Odum, E.P. 1982. Environmental Degradation and the Tyranny of Small Decisions. *Bioscience* 33(9): 728-729.

Peterson, E.B., Y.H. Chan, N.M. Peterson, G.S. Constable, R.B. Caton, C.S. Davis, R.R. Wallace and G.A. Yarranton. 1987. Cumulative Effects Assessment in Canada: An Agenda for Action and Research. Canadian Environmental Assessment Research Council. Hull, Quebec.

Sonntag, N.C., R.R. Everitt, L.P. Rattie, D.L. Colnett, C.P. Wolf, J.C. Truett, A.H.J. Dorcey and C.S. Holling. 1987. Cumulative Effects Assessment: A Context for Further

Research and Development. Canadian Environmental Assessment Research Council. Hull, Quebec.

U.S. Conservation Foundation. 1990. Choosing Appropriate Scales for Making Decisions on Cumulative Impacts: A Guide for Managers. Prepared for the Council on Environmental Quality. Washington, D.C.

Vlachos, E. 1982. Cumulative Impact Analysis. *Impact Assessment Bulletin* 1: 60-70.

### **6.2 References on Methods to Assess Cumulative Environmental Effects**

Bedford, B.L. and E.M. Preston (eds.). 1988. Cumulative Effects on Landscape Systems of Wetlands: Scientific Status, Prospects and Regulatory Perspectives. Springer International. Available from Ecosystems Research Centre, Cornell University. Ithaca, N.Y.

Bedford, B.L. and E.M. Preston. 1988. Developing the Scientific Basis for Assessing Cumulative Effects of Wetland Loss and Degradation of Landscape Functions: Status, Perspectives and Prospects. *Environmental Management* 12(5): 751-771.



Brinson, M. 1988. Strategies for Assessing the Cumulative Effects of Wetland Alteration on Water Quality. *Environmental Management* 12(5): 655-662.

Cada, G.F. and C.T. Hunsaker. 1990. Cumulative Impacts of Hydropower Development: Reaching a Watershed in Impact Assessment. *Environmental Professional* 12(1): 2-9.

Childers, D.L. and G.L. Gosselink. 1990. Assessment of Cumulative Impacts to Water Quality in a Forested Wetland Landscape. *Journal of Environmental Quality* 19(3): 455-464.

Coburn, J. 1989. Is Cumulative Watershed Effects Analysis Coming of Age: *Journal of Soil and Water Conservation* 44: 267-270.

Contant, C.K. and L.L. Wiggins. 1991. Defining and Analyzing Cumulative Environmental Impacts. *Environmental Impact Assessment Review* 11: 297-309.

Gosselink, J.G., G.P. Schaffer and L.C. Lee. 1990. Landscape Conservation in a Forested Wetland Watershed - Can We Manage Cumulative Impacts? *Bioscience* 40: 588-600.

Harris, L.D. 1988. The Nature of Cumulative Impacts on Biotic Diversity of Wetland Vertebrates. *Environmental Management* 12(5): 675-693.

Hemond, H.F. and J. Benoit. 1988. Cumulative Impacts on Water Quality Functions of Wetlands. *Environmental Management* 12(5): 639-653.

Klock, G.O. 1985. Modelling the Cumulative Effects of Forest Practices on Downstream Aquatic Ecosystems. *Journal of Soil and Water Conservation* 40: 237-241.

Lee, L.C. and J.G. Gosselink. 1988. Cumulative Impacts on Wetlands: Linking Scientific Assessments and Regulatory Alternatives. *Environmental Management* 12(5): 591-602.

Preston, E.M. and B. Bedford. 1988. Evaluating Cumulative Effects on Wetland Functions: A Conceptual Overview and Generic Framework. *Environmental Management* 12(5): 565-583.

Stakhiv, E.Z. 1988. An Evaluation Paradigm for Cumulative Impact Analysis. *Environmental Management* 12(5): 725-748.

U.S. Environmental Protection Agency. A Synoptic Approach to Cumulative Impact Assessment. A Proposed Methodology. October 1992.

Webster, T. and P. Connett. 1989. Cumulative Impacts of Incineration on Agriculture - A Screening Procedure for Calculating Population Risk. *Chemosphere* 19: 597-602.

## Appendix A: Identifying Future Projects to be Considered in an Environmental Assessment

### Introduction

To identify which future projects should be considered in an assessment of cumulative environmental effects conducted under the Act, best professional judgement and consultation should be used. There is no simple rule that can be applied to include or exclude future projects from the environmental assessment of the project in question.

In general, when building permits have been issued or when there have been amendments or adjustments made to land use plans, it is relatively certain that the future project will proceed.

Other types of project approvals, such as issuing permits, licenses, leases or easements, the completion and acceptance of an environmental assessment and land use plans can be considered as sufficient evidence that a future project will proceed, depending on the circumstances.

Other information indicating that a future project will proceed, especially information from local developers or builders or the owners and operators of existing facilities should also be considered, especially when it is in writing and is consistent with other indications that a future project will proceed. For example, if the owners of a local industry intend to expand in the next five years and work on an environmental assessment or a permit is underway, then it would be wise to consider the expansion as a future project that will proceed for the purposes of the Act.

Similarly, if an environmental assessment has been completed and accepted and a lease, permit or license has been issued, then it would be wise to assume that the future project will proceed.

In these cases, the decision should be based on the 'weight of evidence' that a future project will proceed. 'Weight of evidence' decisions usually take into account:

- **The quality of the evidence:** Are the indications that a future project will proceed strong or weak?
- **The quantity of the evidence:** Is there one indication that a future project will proceed, or several?

In most cases, future projects that may result from the project's 'growth' inducing ability', unless they have been approved, or are in an approvals process will not be considered as part of the cumulative effects analysis.



Whatever future projects are included in assessments of cumulative environmental effects, the reasons and relevant information supporting the decision should be presented in the environmental assessment report.

## **Types of Approvals**

There are many different types of government approvals processes for projects. Municipal, provincial and in some cases federal approvals may have to be obtained, depending on the nature and location of the project. It would be virtually impossible to describe all of the approvals required for all different types of projects in all locations in Canada. Instead, this section outlines the major types of approvals.

It should be noted that the provinces often delegate their authority for land use planning to municipalities. Thus, in most cases, municipalities often have primary responsibility for project approvals, even if provincial licenses and permits are required. There are, however, two major exceptions to this where the federal government often has primary jurisdiction for land use planning and project approvals. These are federal Crown lands and the territories. Federal Crown lands include airports, national parks and wildlife area, ports and harbours, canals and national defence facilities.

**Building Permits:** Most municipalities require proponents to obtain a building permit before construction can be started. Building permits are issued following a review of building specifications, designs and plans to ensure compliance with Building Code and other requirements. Obtaining a building permit is usually the final step before construction. Future projects with building permits are therefore virtually certain to proceed. For projects on federal Crown lands or in the territories, building permits may be required. Building permits are a very strong indicator that a future project will proceed.

**Amendments or Adjustments to Land Use Plans:** In many cases, projects will require amendments or adjustments to land use plans. Possible amendments and adjustments include Official Plan Amendments and Re-zoning. These approvals are usually municipal and are given prior to the issuance of a Building Permit. There are various terms used to describe this type of approvals process, depending on the circumstances and the requirements of the land use legislation. Amendments or adjustments to land use plans are a strong indication that a future project will proceed.

**Other Types of Permits and Licenses:** Sometimes, projects will require federal and/or provincial licenses and permits. Licenses and permits are required for many activities. Some types of facilities, such as nuclear power plants, require operating licenses and others may require permits for effluent discharges. For example, a federal permit under the Fisheries Act may be required if the project involves

discharges to the aquatic environment. Similarly, a provincial permit, such as a Certificate of Approval under Ontario's Environmental Protection Act, may be required to emit pollutants to the atmosphere.

The federal government issues many different types of permits and licenses that allow activities on federal Crown lands or in the North. They include timber harvesting permits, land use permits and National Energy Board licenses.

The issuing of federal and provincial licenses and permits should be taken as a good indication that a future project will proceed. Permits that allow a change in environmental conditions, such as permits to discharge to air or water may be helpful in identifying the environmental effects of future projects.

**Leases and Easements:** The federal government can lease Crown lands to an individual, a corporation or other types of organisations. Similarly, it can grant easements over Crown lands. Leases are often issued for the management of facilities, such as ports and harbours. They provide a good indication that a future project will proceed.

**Environmental Assessments:** Environmental assessments can also be used as an indication that a project will proceed. However, it should be noted that environmental assessment is not a decision making process, except in Ontario. Elsewhere in Canada, environmental assessment is an aid to decision-making, rather than being a project approvals process. Nevertheless, the completion and acceptance of an environmental assessment by the relevant jurisdictional department or agency indicates that a future project is likely to proceed.

**Land Use Plans:** Federal, provincial or municipal land use plans are another indication of future projects, but they are probably the least definite indicators of future projects. For public facilities and projects, such as roads and buildings, land use plans should contain details of the location and timing of future projects. However, for private developments such as residential, commercial and industrial construction, land use plans are likely to be more vague. Zoning restrictions may provide a general idea of the types of future projects that would be permitted, but not in sufficient detail to assess cumulative environmental effects.

**Other Indications of Future Projects:** In addition to the approvals process outlined above, land sales can be used as an indication that a future project will proceed. For example, if Crown land is sold to a developer then a future project is likely to proceed.

Other sources of information about future projects that will be carried out include:

- Local developers and builders;
- Local residents and community groups, and
- The owners and operators of existing facilities in the area.

Wherever possible, these people and any other person that can provide relevant information should be contacted. Written information from reliable and authoritative sources that can be included in the environmental assessment of the project in question is preferable to anecdotal evidence or hearsay.



**A Reference Guide  
for the  
Canadian Environmental  
Assessment Act**

**The Public Registry**

Prepared by the  
Federal Environmental Assessment  
Review Office

November 1994



# Reference Guide: The Public Registry

## 1. Introduction

This reference guide describes an approach for maintaining a public registry for projects as required under the *Canadian Environmental Assessment Act (Act)*. The reference guide:

- reviews the purpose of the public registry;
- highlights the public registry obligations of responsible authorities (RAs);
- details the public registry framework established by the Canadian Environmental Assessment Agency (CEAA/Agency);
- provides guidelines for RAs in five important areas:
  - . coordinating with other RAs;
  - . document clearing;
  - . cost recovery;
  - . responding to requests;
  - . official language considerations.

The reference guide is intended to assist environmental assessment (EA) practitioners and others responsible for preparing, reviewing, or managing documents related to EAs conducted under the Act. Technical information on operating the public registry, including detailed listings of information requirements and "hands-on" instructions for using public registry software programs, is presented in *The Federal Environmental Assessment Index* (in preparation).

This reference guide should be considered an evolving document, rather than a static text. As the practice of EA under the Act evolves, it may be necessary to update and revise the information provided here. Suggestions for updates or revisions should be directed to:

Director, Process Development  
Federal Environmental Assessment Review Office  
14th Floor, Fontaine Building  
200 Sacre-Coeur Boulevard  
Hull, Quebec  
K1A 0H3

## 2. The Public Registry and the *Canadian Environmental Assessment Act*

### 2.1 The Concept

The Act is based in large part on the principle of public participation:

*"... And whereas the Government of Canada is committed to facilitating public participation in the environmental assessment of projects ... and providing access to the information on which those environmental assessments are based ..." (Preamble)*

*"The purposes of this Act are ...*

*(d) to ensure that there be an opportunity for public participation in the environmental assessment process." (S.4)*

To realize the goal of public participation, the Act provides public access to the information upon which the EAs are based, through means of a public registry.

## **2.2 General Obligations of a Responsible Authority**

The Act imposes two main obligations on RAs with respect to the public registry (s. 55(1)):

- to establish a public registry for the purpose of facilitating public access to the records relating to EAs;
- to operate such a registry in a manner to ensure convenient public access.

A public registry must be maintained in respect of every project for which an EA is conducted, regardless of whether the project undergoes a screening, comprehensive study, panel review or mediation.

The RA is responsible for maintaining the public registry throughout the entire EA of a project. (However, administrative arrangements are in place so that when a project is referred to mediation or a panel review, the registry is maintained by the Agency from the time of the referral until the report of the mediator or panel is submitted to the Minister of the Environment and the RA.)

Section 4 of the reference guide provides guidelines for the RA in meeting these obligations.

## **3. The Public Registry Framework**

The Agency has established a public registry framework within which all RAs can fulfil their public registry obligations. The framework seeks to provide all Canadians convenient access to complete information about EAs carried out under the Act. It also will ensure consistency across the federal government, and allow RAs to meet their public registry obligations in an efficient and convenient manner.



The framework consists of three components:

- the Federal EA Index, an electronic database listing all EAs conducted under the Act;
- RA document listings, maintained by each RA, of all publicly available documents relating to their respective EAs;
- the EA documents themselves.

### **3.1 Benefits to the RA**

The public registry framework established by the Agency to be used in all EAs conducted under the Act provides several important benefits to RAs:

- The system allows all RAs to meet their registry obligations in a consistent, cost-effective manner that ensures convenient, low or no cost public access to information.
- RAs do not have to develop their own procedures for operating the public registry.
- RA tasks are streamlined so as to minimize workload requirements.
- Many of the tasks build on current practices so as to minimize costs and workload requirements for RAs.
- Procedures make practical and effective use of technology whenever possible, further reducing the RA's workload and costs.

Improvements in the framework's software and procedures will be based on continuous consultation by the Agency with RAs.

### **3.2 Federal EA Index**

The Federal EA Index is an electronic listing of all EAs conducted by all RAs under the Act. It contains information on the "who, what, when, where, and why" of federal EAs, and provides contacts for further information on the EAs and related documents. The RA (or, in the case of multiple RAs, one designated RA) is responsible for the collection and input of information for the database, and the electronic transfer of information to the Agency each month. (Technical details on these tasks are provided in *The Public Registry User Manual*, in preparation.)

A specific EA is listed on the index from its start until the completion of any follow-up program. Information on completed EAs is automatically archived in a separate component of the index. (These historical data are an important source of information for the Agency in fulfilling its obligations under the Act to monitor and report on the federal environmental assessment process.)

The Agency will operate and maintain the index. Specific Agency tasks include:

- designing version 1 of the index software;
- ensuring the availability of this software and its design specifications to RAs;
- ensuring the integrity of information in the index;
- operating and maintaining the "roll up" of information from RAs each month;
- providing public access to the index through cost effective, user-friendly means, such as walk-in access to major libraries and federal offices, and on-line access through various computer network information systems.

The index provides significant benefits to the public:

- It provides "one window" access on the key information of any EA conducted under the Act.
- It directs the public to contacts and documents related to a specific EA;
- It is electronic and therefore convenient, quick, and inexpensive.
- It eliminates the need to request information on EAs through the *Access to Information and Privacy Act (ATIP)*.

### **3.3 RA Document Listings**

The second component of the public registry framework is the listing of all available documents relating to each EA being conducted under the Act. Each RA maintains a listing for each of its respective EAs. (The Agency maintains the listing if the project is undergoing a public review.)

For each document on the public registry, the RA should maintain the following information:

- an identifier (or file) number;
- format;
- media;
- title/subject;
- author;
- date;
- language;
- number of pages;
- primary document location;
- alternate document location.

The RA may maintain its document listings in electronic form (through the Federal EA Index software) or hardcopy form.

Requests by the public for the RA document listings and associated documents will be through the EA contact noted on the Federal EA Index. This contact should be able to access all relevant RA document listings. RAs are free to determine the most cost effective, convenient approach for meeting this objective consistent with the principles of convenience and low (or no) cost.

### **3.4 EA Documents**

The third component of the public registry framework consists of the EA documents produced by, collected by, or submitted to the RA with respect to an EA. EA documents must be managed by the RA in accordance with Treasury Board Management of Government Holdings policy and procedures, and archived according to the *National Archives of Canada Act*.

Section 4 of this reference guide provides guidance on managing documents listed in the public registry

## **4. Guidelines for Responsible Authorities**

This section provides detailed guidance and procedures for RAs on meeting their public registry obligations under the Act in five key areas:

- coordination with other RAs;
- document clearing;
- cost recovery;
- responding to requests;
- official language considerations.

### **4.1 Coordination with Other RAs**

The same project may have two or more RAs. To ensure that only one EA is conducted for each project, rather than each RA conducting its own EA, one of the RAs could be designated as the lead RA, or the RAs could coordinate their assessment in a team or working group structure.

Public registry obligations should be clarified within this overall coordinated approach, as well. RAs should be guided by two principles:

- *one project, one EA entered on the Federal EA Index*

RAs should ensure that each EA is entered only once on the Federal EA Index to avoid duplication of effort and confusion among those requesting documents. RAs should jointly determine the most effective procedures for coordinating this responsibility over the life of the EA.



- *single point-of-contact for any request for documents*

Similarly, RAs should jointly establish a coordinated, single point-of-contact approach to handling requests for documents from the public. Members of the public will, in most cases, request documents through the contact listed in the Federal EA Index. This contact should clarify and confirm the documents that the requester wants, and then undertake to obtain them from the appropriate RAs and forward them to the requester. This approach will be efficient only if the contact has ready access to the document listings maintained by the other RAs. Members of the public should not be referred to other contacts in other departments.

## **4.2 Document Clearing**

The Act requires the RA conducting an EA to establish and maintain a public registry of the records (documents) related to the assessment. The purpose of the registry is to ensure convenient public access to this information. Since the registry can only contain records accessible by the public, this determination must be made by the RA for each record prior to placing it in the registry.

### **Documents Produced by the RA**

For many EAs, the most common documents that will need to be entered in the public registry are those produced by the RA or at its request. As the source of such documents, the RA has an opportunity to greatly simplify the document clearing procedures, and reduce the time and effort that might otherwise be required to clear documents.

By ensuring that key considerations are addressed before a document is produced, the RA can eliminate the need to follow all eight document clearing procedures afterwards.

The most important consideration relevant to produced documents is whether the document includes information that must be exempted from the public registry (such as Cabinet documents or trade secrets). If the document contains no exempted information, the entire document must be entered on the public registry. If the document does contain exempted information, then the document must still be entered on the public registry, but with the exempted information blacked out (removed). (The entire document will be exempted from the registry only if it does not make sense after the exempted information has been removed.)

To reduce workload demands for clearing documents, the RA should ensure that those responsible for producing EA documents on its behalf are aware of the exemptions, so that the need to review the detailed clearing procedures never arises. (See Steps 5 and 6 below for details on the categories of exempted information.)

Even this consideration is essentially "business as usual" for RAs producing documents. No RA, for example, would knowingly include in its EA documents trade secrets, Cabinet documents, or information relating to national security or criminal investigations. It is simply a matter of incorporating these exemptions into the RA's operating practices as it carries out an EA.

The detailed procedures outlined below may serve as a guide to RAs wishing to develop this capacity for built-in pre-determination of its produced documents. The procedures remain valid, however, for all documents relating to an EA, regardless of whether the document has been produced by the RA or not. If there are any questions about whether a particular document should be in the public registry, the RA should refer to the detailed procedures for guidance or seek the advice of their Access to Information and Privacy (ATIP) expert or legal services.

### **Proposed Clearing Procedures**

The proposed document clearing procedures consist of six steps. The "yes/no" answer at each step determines whether the RA should proceed to the next step, or whether the particular document is excluded from the public registry. The procedures apply, with only minor variances, to all documents relating to an EA, regardless of whether the document has been produced, collected or submitted.

#### **Step 1: Document related to an EA?**

The RA must first determine if the document has been produced, submitted, or collected with respect to an EA conducted under the Act.

- A produced document is any document prepared by a RA, panel or mediator or which has been produced for or at the request of the RA, panel, or mediator. This category will cover most documents related to an EA, particularly a screening. Examples of produced documents include screening reports and guidelines.
- A submitted document is any document sent to the RA, panel, or mediator by a person or organization for an EA. Examples include comments, letters, studies, research by non-governmental organizations, and proponents' documents.
- A collected document is a document which already exists and which is requested by the RA, panel, or mediator for an EA. Examples include studies not applicable to any specific EA, academic articles, and published documents.

#### **Step 2: Should document be returned to sender?**

The RA must next consider whether there is any reason that the document should be

<b>If Yes:</b>	Proceed to Step 2.
<b>If No:</b>	Do not put in the public registry.

returned to the sender. For example, an individual has submitted a document and requested that it not be made public. In such a case, the RA must not take control of the document (by copying it or placing it in a file, for example), and must immediately return it to the sender.

<b>If yes:</b>	Do not take control of the document; return it to sender.
<b>If no:</b>	Proceed to Step 3.

### **Step 3: Is document a record?**

In Step 3, the RA must determine if the document is a record, as defined by the Act. Under the Act, a record can be, but is not necessarily restricted to, the following:

- any correspondence, memorandum, book, plan, map, drawing, diagram, pictorial or graphic work, photograph, film, microform, sound recording, videotape, machine readable record, and any other documentary material, regardless of physical form or characteristics, and any copy thereof.

This is a broad definition, and includes anything that can be received and copied. It does not, for example, extend to samples of living or dead animals, fish, plants or insects, or parts of these things. Nor does it extend to samples of water, mud, rocks or minerals, etc. However, the results of tests or analyses conducted on any of these things are considered records.

<b>If yes:</b>	Proceed to Step 4.
<b>If no:</b>	Do not put in the public registry.



#### **Step 4:        Already been made available?**

The document must be entered in the public registry if it has already been made available to the public in some way. These could include, for example: official releases; government publications mailed directly to the public or available through outlets such as the Post Office, Canada Employment Centres, and public libraries; commercial publications; and publications placed in a public institution, such as the National Library, or the National Archives.

A document can be made available to the public in any one of a variety of formats, such as a book, magazine, or pamphlet, on audio or video tape, in a database, or on microfiche.

<b>If yes:</b>	Put the document in the public registry.
<b>If no:</b>	Proceed to Step 5.

#### **Step 5:        Document contains Queen's Privy Council confidences?**

In Step 5, the RA must determine if the document contains confidences of the Queen's Privy Council for Canada. (Such documents would be expected to appear in documents produced by the RA, rather than submitted by another party.) Documents in this category include:

- . memoranda to Cabinet (MCs);
- . background discussion papers providing explanations, analysis or policy options for consideration in decision-making;
- . agenda or records of deliberation or decision-making;
- . communications between Cabinet ministers on matters relating to government decision-making or the formulation of government policy;
- . briefing notes in relation to matters before or proposed to be brought before Cabinet or Cabinet committees
- . draft legislation, including draft regulations, guidelines, orders-in-council, and other statutory instruments which require Cabinet approval.
- . any record which contains information about the contents of any of the above kinds of records.

<b>If yes:</b>	PCO will advise as to whether all or part of the document can be included in the public registry.
<b>If no:</b>	Proceed to Step 6.

### **Step 6: Document contains information that must be exempted?**

The Act, in conjunction with the *A/A*, prohibits the RA from disclosing some records through the public registry and also allows the RA to withhold a record or part of a record from the public registry in some circumstances.

An RA may believe that certain information that would otherwise be exempted is in the public interest because the public needs it to participate effectively in the EA. In such a case, the RA may place that information on the public registry. Special conditions apply for third party information (see below).

If an RA concludes that a document contains information that must be exempted, it must attempt, wherever possible, to place any part of the record which does not contain exempted information in the public registry. The RA blacks out the information which cannot be disclosed, then checks to see if the document still makes sense. If it does, it is included in the public registry.

Fourteen categories of permitted or required exemptions are explained briefly below.

#### **(1) Third party information**

The *A/A* (and s.55(4) and s.55(7) of the Act) require an RA to protect trade secrets or confidential financial, commercial, scientific and technical information belonging to or affecting third parties from disclosure. For the purposes of public registries, a third party is any person, corporation or group which provided the above types of information on a confidential basis to any government institution. This would include information provided to federal organizations such as Crown corporations to which Act might not otherwise apply.

If the record contains information that might be considered third party, the RA should follow established procedures contained in Sections 27,28, and 44 of the *A/A*. These same procedures should be implemented if the RA has identified third party information and determines that placing it on the public registry is in the public interest because it is required in order for the public to participate effectively in the EA.

## **(2) Trade secret**

The RA must prevent the disclosure of records which fulfil the following criteria:

- the record contains information that should remain confidential, known only by a relatively small number of persons;
- the person who possesses the information intended to keep the information secret;
- the information has an industrial or commercial value to the person who possesses it.

## **(3) Personal information**

An RA cannot put any record into the public registry which contains information about an identifiable individual that is recorded in any form. Personal information includes any information which could identify an individual, such as:

- the individual's name where it appears with other personal information relating to the individual or where the disclosure of the name itself would reveal information about the individual;
- information relating to the individual's educational or employment background;
- any identifying number or symbol assigned to the individual, such as a membership number or code;
- correspondence sent to or from a government institution and that contain personal information.

In some circumstances, it will include other identifying characteristics, such as handwriting, or identification of membership in a group or community.

An RA may place personal information in a public registry if:

- the individual concerned provides direct and informed consent to the disclosure of the personal information; the fact that the comments were provided in response to an invitation to comment during an environmental assessment is not sufficient to infer the individual's consent to disclosure of the information;
- the information has otherwise been made available to the public through, for example, a letter or advertisement published in a newspaper, or a petition tabled in Parliament.

Personal information does not include:

- information about an employee of a government institution which relates to the position or function of the individual, such as the title, business address and telephone number of the employee or the personal opinions and views of the



- individual given in the course of employment;
- information about an individual performing services under contract for the government institution, including the terms of the contract, the name of the individual and the opinions or views of the individual given during the course of performing these services.

#### **(4) Information subject to solicitor-client privilege**

An RA does not have to put communications between itself and a lawyer in a public registry, if these communications were made in order to obtain legal advice. The right to protect these records from disclosure belongs to the RA, not the lawyer, so the RA can choose to disclose the documents if it wishes. For example, an RA may decide to place a document in the public registry because it is in the public interest to do so. Before waiving the privilege the RA should consult its lawyer in order to assess the impact of the waiver of the privilege prior to the disclosure of the opinion. Waiving the privilege for one option might have an impact on other operations of the RA or on other government institutions.

In order to be exempted, the communication must be made in a good faith effort to obtain legal advice, and be made in a confidential manner, with the intent that the communication should remain confidential.

As long as the above criteria are met, the position or title of the person requesting the legal opinion is irrelevant in determining whether the communication can be protected from disclosure. However, an RA cannot withhold a document simply because it has been transmitted to a lawyer -- the communication must meet the above criteria. For example, if an environmental report was prepared for the purpose of obtaining legal advice from a lawyer and was treated as confidential by the federal authority, the document would be privileged. However, if this document was prepared for other reasons, and sent to the lawyer for general information purposes, it would not be privileged.

#### **(5) Information obtained "in confidence"**

An RA cannot place a record in the public registry if the entity which supplied the information has stipulated that the confidential information cannot be divulged beyond the government institutions which have a need to know the information. This includes information obtained from:

- the government of a foreign state or any of its institutions;
- an international organization of states or any of its subsidiary institutions;
- the government of a province or any provincial institution;
- a municipal or regional government or any municipal institution.

The RA may disclose information obtained "in confidence" from these governments or organizations if the body consents to the disclosure, or makes the information public itself.

#### **(6) Federal-provincial affairs**

An RA may refuse to put into the public registry any record that contains information that could be injurious to federal-provincial affairs. Examples of this include information on federal-provincial consultations or deliberations, and on Government of Canada strategy relating to the conduct of federal-provincial affairs.

#### **(7) International affairs, defence, and national security**

A government institution may refuse to put any record into the public registry that contains information which would be expected to be injurious to:

- the conduct of international affairs, including state to state affairs, and commercial, cultural or scientific links established by citizens with counterparts in other countries;
- the defence of Canada or any state with which Canada has concluded formal alliances or treaties, or to which Canada may be linked for trade or other purposes;
- the detection, prevention, or suppression of subversive or hostile activities.

#### **(8) Law enforcement, investigations and security of penal institutions**

An RA may refuse to put any record in the public registry that contains information:

- that was legally obtained in the course of criminal or security investigations, including information obtained by the RCMP while performing policing services for a province or municipality, if the document was created less than twenty years before the request;
- that relates to investigative or criminal methods and techniques, a particular investigation, or a confidential source of information;
- that relates to the security of a penal institution, particular buildings, structures and systems such as computer or communication systems, or technical information relating to weapons;

The above exemptions may be applied if the information was obtained or prepared by any of the following institutions listed in Schedule I to the *Access to Information Act Regulations*:

- Canada Ports Corporation Police & Security, Transport Canada;
- Canadian Forces Military Police;
- Canadian Security Intelligence Service;

- Director of Investigation & Research, Department of Consumer & Corporate Affairs Intelligence Division, Department of National Revenue (Customs & Excise);
- Preventive Security Division, Securities Branch, Canadian Penitentiary Service
- Royal Canadian Mounted Police;
- Special Investigations Division, Department of National Revenue (Taxation);
- Special Investigations Unit, Department of National Defence.

## **(9) Safety of individuals**

An RA may refuse to put any record into the public registry that contains information which could threaten the safety of individuals.

## **(10) Economic interests of the Government of Canada**

An RA can refuse to put any record into the public registry that contains, for example:

- valuable trade secrets belonging to the Government of Canada;
- sensitive information pertaining to the financial interests of Canada, such as information about Canadian currency;
- changes contemplated in tariffs or taxes;
- a contemplated sale or acquisition of land or property.

## **(11) Operations of Government**

An RA may refuse to put into the public registry any record that contains:

- advice or recommendations prepared for a government institution or a Minister. This does not include, for example, guidelines for interpreting legislation or exercising discretion, instructions from Ministers to government officials;
- consultations or deliberations involving employees of a government institutions, a Minister or the Minister's staff, such as memoranda, answers to a Minister's request, or minutes of a meeting;
- negotiating plans or positions developed for use by the Government of Canada;
- administrative or personnel management plans which have not yet been put into operation.

This category does not apply to records that are a statement of reasons for an adjudicative or discretionary decision which affects the rights of a person, or are a report prepared by a consultant or advisor who was not an employee or officer of a government institution, or on a Minister's staff when the report was prepared.



## **(12) Testing Procedures**

An RA may refuse to put a record in a public registry if the record contains information relating to testing or auditing procedures or techniques, or details of specific tests or audits that will be conducted, if this disclosure would prejudice the use or results of the tests or audits.

## **(13) Statutory Prohibitions**

An RA cannot disclose any record if a specific section or sections of an Act of Parliament restrict or prohibit the disclosure of information. Acts which restrict or prohibit the disclosure of information are listed in Schedule II of the *A/A*, and include:

- *Aeronautics Act*;
- *Atomic Energy Control Act*;
- *Canada-Newfoundland Atlantic Accord Implementation Act*;
- *Canada-Nova Scotia Offshore Petroleum Resources Accord Implementation Act*;
- *Canadian Environmental Protection Act*;
- *Canada Oil & Gas Act*;
- *Energy Efficiency Act*;
- *Hazardous Products Act*;
- *Motor Vehicle Consumption Standards Act*;
- *Transportation of Dangerous Goods Act*.

## **(14) Information to be published**

An RA may refuse to put a record into the public registry if the record will be published by a government institution within 90 days from the time when the RA is considering its inclusion in the public registry.

- |                |  |
|----------------|--|
| <b>If yes:</b> | Sever any exempted information. If the document still makes sense, put it in the public registry. If the document does not make sense, do not put it in the public registry. |
| <b>If no:</b>  | Put the document in the public registry.   |

## **4.3 Cost Recovery**

This section provides guidance for RAs on determining the fee, if any, for providing copies of public registry documents to the public. This fee structure is based on that used for the *A/A*.

## Principles

The fee structure has been developed according to the following principles:

- *Simplicity*

The process to determine costs recovered or waived should be as simple and precise as possible to avoid variations in interpretation and to ensure the fair treatment of requesters.

- *Consistency*

The practice of recovering costs should be uniform throughout the federal government.

- *Usefulness*

Cost recovery guidelines should not inhibit convenient public access to documents. However, the guidelines should serve as a deterrent to frivolous, overly-broad or poorly-framed requests.

- *Pre-payment*

Payment for the reproduction costs (if any) must be received by the RA before the documents are to be transmitted.

- *Scope*

Charges should be limited to reasonable standard costs and should cover only the direct costs of reproducing documents in hardcopy or electronic form. Costs should not be recovered for the indirect costs associated with providing public access to documents, or for costs associated with mailing or otherwise transmitting documents.

- *Level*

There should be no minimum or maximum charge for reproducing documents. Charges will automatically be waived when the costs do not exceed \$25.00.

- *Exemptions*

No costs should be charged for documents prepared for the purpose of consulting with the public, during the period of consultation.

- *Format*

For convenience and cost savings, the reproduction of documents in electronic form should be encouraged.

## Procedures

The procedures for determining cost recovery charges applicable to requests for documents listed in the public registry consist of three steps.

### **Step 1: Determine if requested document is exempt from charges**

No costs are to be charged for a copy of any document prepared and communicated to the public for consultation purposes, whether for public comment or to facilitate public participation in the EA, during the period of consultation. Such documents include:

- a screening report, if the RA has exercised its discretion under the Act to seek public comment;
- a proposed class screening report;
- a comprehensive study report;
- any reports, notices or other material prepared as part of a public consultation program by the RA or the Agency;
- terms of reference for a mediator or review panel;
- guidelines for the completion of an environmental impact statement, if the public is to be consulted prior to the guidelines being forwarded to the proponent;
- reports completed by a federal department or agency for a mediator or panel;
- a mediator's report;
- a public review panel's report;
- any documentation prepared by or for an RA in the post-decision stage under s. 38(2) of the Act to advise the public of:
  - . its course of action in relation to a project;
  - . the mitigation measures to be implemented;
  - . the extent to which the mediator's or panel's recommendations have been adopted;
  - . a description of its follow-up program;
  - . any results of its follow-up program.

<b>If Yes:</b>	Process request immediately (see section 4.4)
<b>If No:</b>	Proceed to Step 2

### **Step 2: Determine cost recovery charge**

Total charges for a particular request will depend on the format in which the documents are to be provided, whether hardcopy, microfiche or electronic. For example, two hundred pages of text would cost \$40.00 if provided in hardcopy format. However the same number of pages could easily be reproduced on one computer diskette for \$10.00, and thus be provided to the requester free of charge. If the



requester's preferred format is not clear from the request, the RA should contact the requester.

The fee schedule for the three formats are:

*Hardcopy/faxed*

- for pages of not more than 21.5 cm by 35.5 cm: \$0.20 a page;
- for pages larger than this size: on an at-cost basis;

*Microfiche*

- \$0.40 per fiche;

*Electronic*

- \$10.00 per 5.25" or 3.5" diskette.

**If total fee \$25 or less:**

Process request (see section 4.4)

**If total fee more than \$25.00:**

Proceed to Step 3

**Step 3: Inform requester of fee, if any**

If the total reproduction costs of the request exceed \$25.00, the RA should immediately inform the requester. In most cases, and particularly when the request is urgent, the contact should be made via telephone or fax.

The RA should inform the requester of the total fee and that the request can be processed only upon receipt of the full payment.

**4.4 Responding to Requests**

This section provides guidelines for RAs on what constitutes a reasonable timeframe in responding to public requests for documents that are in the public registry.

**Principles**

The guidelines are based on the following principles:

- *Promptness*

The time period between ordering of a document and its delivery should, in most cases, be less than 30 calendar days.

Under the *A/A*, access is to be provided within 30 calendar days after a request is received. This period can be extended if the request is for a large number of documents, if the request requires a search through a large number of records, or if consultation is necessary and cannot be completed within thirty days.

Under the Act, however, access to any document is pre-determined before any request is received. It is not necessary to factor into the processing period any time for determining whether access is to be provided, or for searching for a document.

- *Flexibility*

Time periods should be flexible to account for the circumstances of each request. Longer time periods may be necessary for requests involving many or lengthy documents. Shorter time periods may be necessary because of an external constraint, such as a public participation deadline.

- *Format*

Electronic transmission of documents should be encouraged. This principle supports the public registry development objectives of being cost effective, minimizing workload, and making effective use of technology.

## **Guidelines**

Consistent with the principle of using a phased approach, the following guidelines are intended to be flexible and apply in the short term until RAs have had greater experience in responding to public requests for information:

1. All time periods are measured from the date of request until the date the documents are transmitted.

The date of request is the date on which the request is received by the RA. If the request is given by telephone, the date is the date of the phone conversation. In the case of a mailed request, the date is the date of receipt by the RA. If a document is mailed out by the RA, the date of transmission is the postmark. In the case of documents transmitted in person, by fax or other electronic format, the date is the date of the transmitting activity. In the relatively small number of cases in which there will be a fee for the documents, the date of request is the date on which full payment is received (see section 4.2 for details on cost recovery guidelines).

2. Access should be provided within 10 working days of the date of request, unless an extension (as outlined in guidelines 4 and 5 below), is warranted.

3. Priority should be given to requests from persons wanting to participate in a pending or current formal public participation process being conducted under the Act. Access should, when possible, be provided in less than 10 working days if a formal public participation or public comment deadline falls within the 10-day period.
4. Access may, if necessary, be provided within a period greater than 10 working days but less than 30 calendar days, in the following circumstances:
  - . the request is for a large number of documents or for particularly lengthy documents;
  - . the request requires documents to be translated or put into an alternative format;
5. Access may exceed 30 calendar days only if the requester agrees to the extension. In such cases, an alternative arrangement, such as forwarding summary pages within a shorter period of time, may be appropriate as well.

#### **4.5 Official Language Obligations**

This section outlines the conditions that must be met for meeting the requirements of the *Official Languages Act (OLA)* while maintaining the public registry.

A document that is to be entered onto the public registry must be translated into the other official language *only* if it meets *all three* of the following conditions:

- the document has been prepared for the purpose of communicating with the public;
- the document originates with an RA;
- the address of the primary contact for documents (listed on the Federal EA Index) is in a designated bilingual area.

Note: The need for translation into languages other than English and French will depend on the location of the project, and can be determined only on a case-by-case basis by the RA.

##### **Condition 1: Has the document been prepared for the purpose of communicating with the public?**

First, the RA must determine whether the document has been prepared for the purpose of communicating to the public. The fact that a particular document may eventually be requested and reviewed by the public does not automatically mean that it must be translated. The critical factor is whether the document has been prepared to communicate, notify, or consult with the public.



**Condition 2: Does the document originate with an RA?**

Only those public registry documents that meet Condition 1 and originate from an RA may need to be translated. Such documents have either been prepared by the RA itself, or by a third party under the direction and responsibility of the RA. Documents prepared by third parties not under the direction of the RA do not have to be translated.

**Condition 3: Is the address of the primary contact for the documents (listed in the Federal EA Index) in an area designated bilingual?**

The location of an EA's public registry is considered to be the address of the primary contact person for the documents (as listed in the Federal EA Index). In most cases, this location will be where the EA is administered. Documents meeting the first two conditions above need be translated only if this address is in an area designated bilingual under the *OLA*.

Designated bilingual areas include:

- any central office (headquarters) of a federal institution;
- an office or facility located within the National Capital Region;
- an office or facility located in a region designated as bilingual under the *OLA* under Treasury Board's "significant demand" criterion. (The Official Languages and Employment Equity Branch of Treasury Board has a computerized system that can facilitate the determination of whether the "significant demand" criterion applies to any given region.)

Note: The *OLA* also applies to the RA's communications with the public about the public registry. That is, all contact with the public on registry matters, such as telephone calls and written correspondence, must be available in both official languages if the public registry is located in an area designated bilingual. This is consistent with current practices relating to the provision of federal government services across the country.

***Examples***

***Documents that need not be translated***

Examples include:

- screening reports (unless the RA has exercised its discretion under the Act to seek public comment and the public registry is located in an area designated bilingual)

- letters from the public and unsolicited reports from interest groups (because they do not originate with an RA).

### *Documents that may need to be translated*

A number of documents always meet the first two conditions; that is, they are prepared for the purpose of communicating with the public, and they originate with an RA. These documents would need to be translated if the address of the primary contact for documents, as listed in the Federal EA Index, is in an area designated bilingual.

Such documents include:

- a model class screening report;
- a comprehensive study report;
- any reports, notices or other material prepared as part of a public consultation program by the RA;
- terms of reference for a mediator or review panel;
- guidelines for the completion of an environmental impact statement, if the public is to be consulted prior to the guidelines being forwarded to the proponent;
- reports completed by a federal department or agency for a mediator or panel;
- a mediator's report;
- a public review panel's report;
- any documentation prepared by or for an RA in the post-decision stage under s. 38(2) of the Act to advise the public of:
  - . its course of action in relation to a project;
  - . the mitigation measures to be implemented;
  - . the extent to which the mediator's or panel's recommendations have been adopted;
  - . a description of its follow-up program;
  - . any results of its follow-up program.





**A Reference Guide  
for the  
Canadian Environmental  
Assessment Act**

**Determining Whether A Project  
is Likely to Cause  
Significant Adverse  
Environmental Effects**

Prepared by the  
Federal Environmental Assessment  
Review Office

November 1994



# Reference Guide: Determining Whether A Project is Likely to Cause Significant Adverse Environmental Effects

## 1. Introduction

This reference guide describes an approach for deciding whether a project is likely to cause significant environmental effects under the *Canadian Environmental Assessment Act (Act)*. It is one of several reference guides intended to provide the supporting documentation for the *Responsible Authority's Guide to the Canadian Environmental Assessment Act* prepared by the Federal Environmental Assessment Review Office (FEARO). All of the reference guides are complimentary to the *Responsible Authority's Guide to the Canadian Environmental Assessment Act* but go into more detail on individual issues. Specifically, this reference guide:

- reviews the concept of significance;
- discusses the relevant requirements of the Act;
- proposes an approach for deciding whether a project is likely to cause significant adverse environmental effects under the Act;
- provides a list of key references on the subject.

As the practice of environmental assessment evolves, it will be necessary to update and revise both the *Responsible Authority's Guide to the Canadian Environmental Assessment Act* and the individual reference guides. These guides should be seen as evolving documents rather than as static textual materials. Any suggestions for updates or revisions should be directed to:

Director  
Process Development  
Policy and Regulatory Affairs  
Federal Environmental Assessment Review Office  
14th Floor, Fontaine Building  
200 Sacré-Coeur Boulevard  
Hull, Québec  
K1A 0H3

This guide is intended primarily for responsible authorities (RAs) and the Minister of the Environment (the Minister), since under the Act, they are responsible for determining when a project is likely to cause significant adverse environmental effects.

## 2. The Concept of Significance

Deciding whether a project is likely to cause significant adverse environmental effects is central to the concept and practice of environmental assessment. Whatever

adverse environmental effects are addressed and whatever methods are used, the focus of environmental assessment always narrows down to a decision about whether the project is likely to cause significant adverse environmental effects.

The concept of significance cannot be separated from the concepts of "adverse" and "likely." Environmental effects that are *adverse*, and significant adverse environmental effects that are *likely*, are referred to for convenience in this guide as "the related matters."

Deciding when a project is likely to cause significant adverse environmental effects is not new to environmental assessment (EA). This concept was included in the Environmental Assessment and Review Process (EARP) Guidelines Order and can be found in most EA legislation, procedural manuals, documents and the research literature. But there is little guidance available on *what* to consider when determining significance and the related matters and *how* this should be done.

### **3. The Requirements of the *Canadian Environmental Assessment Act***

The concept of significance is extremely important in the Act. One of the stated purposes of the Act is:

*to ensure that projects that are to be carried out in Canada or on federal lands do not cause significant adverse environmental effects outside the jurisdictions in which the projects are carried out" (section 4 (c)).*

The central test in the Act is whether a project is *likely to cause significant adverse environmental effects*. This determination is an objective test from a legal standpoint, which means that all decisions about whether or not projects are likely to cause adverse environmental effects must be supported by findings based on the requirements set out in the Act.

The definitions of "environment" and "environmental effect" are the starting point for this test. The Act defines the environment as:

*the components of the Earth, and includes*

- (a) land, water and air, including all layers of the atmosphere,*
- (b) all organic and inorganic matter and living organisms, and*
- (c) the interacting natural systems that include components referred to in paragraphs (a) and (b) (section 2(1)).*

*Environmental effect means, in respect of a project,*



- (a) *any change that the project may cause in the environment, including any effect of any such change on health and socio-economic conditions, on physical and cultural heritage, on the current use of lands and resources for traditional purposes by aboriginal persons, or on any structure, site or thing that is of historical, archaeological, paleontological or architectural significance, and*
- (b) *any change to the project that may be caused by the environment,*

*whether any such change occurs within or outside Canada (section 2 (1)).*

Only environmental effects as defined in the Act can be considered in determinations of significance and the related matters. It follows that the determination of significance and the related matters can consider only:

- direct changes in the environment caused by the project;
- the effects of these environmental changes on:
  - . health and socio-economic conditions,
  - . physical and cultural heritage,
  - . current use of lands and resources for traditional purposes by aboriginal persons,
  - . any structure, site or thing that is of historical, archaeological, paleontological or architectural significance;
  - or
- changes to the project caused by the environment.

For example, the socio-economic effects of a project may or may not be factors in determining significance and the related matters. If a socio-economic effect (such as job losses) is caused by a change in the environment (such as loss of fish habitat), which is in turn caused by the project, then the socio-economic effect is an environmental effect within the meaning of the Act and must be considered when determining significance and the related matters. If the socio-economic effect is not caused by a change in the environment, however, but by something else related to the project (for example, reallocation of funding as a result of the project), then the socio-economic effect is *not* an environmental effect within the meaning of the Act and cannot be considered in the determination of significance and the related matters.

Determinations of significance and the related matters must be made:

- following a screening;
- after a comprehensive study report has been completed;
- after a mediation or review panel report has been submitted.

Following a screening, the RA must decide whether or not the project is likely to cause significant adverse environmental effects, taking into account the implementation of mitigation measures (section 20(1)). If the RA decides that the project is not likely to cause significant adverse environmental effects, it may allow the project to proceed, while ensuring that any appropriate mitigation measures are implemented. If the RA decides that the project is likely to cause significant adverse environmental effects (taking into account the implementation of mitigation measures) and these effects cannot be justified in the circumstances, it must not do anything that would permit the project to proceed.

The RA must refer the project to the Minister for referral to a mediator or a review panel when:

- it is uncertain whether the project is likely to cause significant adverse environmental effects (taking into account the implementation of mitigation measures);
- it decides that the project is likely to cause significant adverse environmental effects that may be justifiable in the circumstances; or
- public concerns warrant a referral.

When a comprehensive study report is sent to the Minister and the Canadian Environmental Assessment Agency (the Agency) by an RA, the Minister is required to make a process decision about whether or not further review of the project is necessary, or whether a final decision can be made by the RA (section 23). This decision must be based on the comprehensive study report. If the Minister decides that the project, taking into account the implementation of mitigation measures, is not likely to cause significant adverse environmental effects or that it is likely to cause significant adverse environmental effects that cannot be justified in the circumstances, the Minister must refer the project back to the RA for appropriate action. If it is uncertain, however, whether the project is likely to cause any significant adverse environmental effects or that the project will cause significant adverse environmental effects that may be justified in the circumstances, the project must be referred to a mediator or a review panel. Public concerns may also warrant referring the project to a mediator or a review panel.

After a panel review or a mediation is completed, or when a comprehensive study report of a project is referred back to the RA by the Minister, the RA must make the final determination and decide whether the project is likely to cause significant adverse environmental effects (section 37(1)). If the project is not likely to cause significant adverse environmental effects, or if it is likely to cause significant adverse environmental effects (taking into account the implementation of mitigation measures) that can be justified in the circumstances, the RA is free to provide federal support to or participate in the project. If, on the other hand, the RA considers that the project is likely to cause significant adverse environmental effects that cannot be justified in the



circumstances, it must not do anything to permit the project to proceed.

Four points merit special attention. First, with the exception of transboundary boundary reviews, the RA makes the determination about whether the project is likely to cause significant adverse environmental effects. The Minister, however, does make a process determination of significance and the related matters following receipt of a comprehensive study report from an RA. After considering whether the project is likely to cause significant adverse environmental effects, as described in the comprehensive study report, the Minister must make a decision whether further study, through a panel review or mediation, is warranted.

Second, in *all* cases, significance and the related matters are determined only after taking into account any mitigation measures the RA considers appropriate. In other words, no final determination can be made about the significance of the likely adverse environmental effects or the related matters unless the implementation of any appropriate mitigation measures has been considered.

Third, public input into the determination of significant adverse environmental effects must limit itself to questions related to scientific analysis and interpretation. The public, for example, could provide new evidence, offer a different interpretation of the facts, or question the credibility of the conclusions. Issues that are not directly linked to the scientific (including traditional ecological knowledge) analysis of environmental effects, such as long-term unemployment in a community or fundamental personal values, cannot be introduced into the determination at this step. Such public concerns and values are given prominence elsewhere in the EA process. Under the Act, serious public concerns can warrant referral of the project to a public review through either mediation or a public panel review. That is, public concerns -- that may or may not have to do with scientific issues -- can prompt the EA process to take a closer look at the project.

Fourth, if there is a determination that the project, taking into account the implementation of appropriate mitigation measures, is likely to cause significant adverse environmental effects, then the RA must also determine whether or not such effects can be justified under the circumstances. The Act is clear that the project may be allowed to proceed if any likely significant adverse environmental effects can be justified in the circumstances. This is the final "test" in the Act. The RA can decide that likely significant adverse environmental effects are *not* justified after a screening, comprehensive study report, or a public review. It can decide that they *are* justified, however, only after a public review in the form of mediation or a panel review.

The central question for the RA or the Minister in the process decision following submission of a comprehensive study report, remains: "Is the project likely to cause any significant adverse environmental effects?" Thus, only environmental effects that are both *likely and adverse* can be considered in determinations of significance.



Environmental effects that are unlikely or are not adverse cannot be considered in significance decisions. It is important to note that the test is not of "significantly adverse" effects, but of adverse effects that are significant. The "likely" applies to the environmental effects of the project that are both adverse and significant.

#### **4. A Framework**

This section provides a framework for guiding RAs in determining whether environmental effects are *adverse, significant, and likely* within the context of the Act.

The framework consists of three general steps:

- Step 1: Deciding Whether the Environmental Effects are Adverse
- Step 2: Deciding Whether the Adverse Environmental Effects are Significant
- Step 3: Deciding Whether the Significant Adverse Environmental Effects are Likely

Each step consists of a set of criteria that RAs and the Minister should use to address these three questions, as well as examples of methods and approaches that can be applied. To apply the criteria, the RA and the Minister must rely on information provided by the proponent. Thus, the RA or the Minister should ensure that the proponent provides the necessary information (section 18(2)), by specifying the types of information required to determine significance and the related matters when the scope of the project is defined by the RA or the Minister.

##### **4.1 Step 1: Deciding Whether the Environmental Effects are Adverse**

In making this decision, it may be helpful to separate the effects on people from the effects on the environment, recognizing of course that people are integral to most ecosystems. It is important to remember that only "environmental effects" as defined in the Act can be considered.

Table 1 lists the major factors that should be used to determine whether environmental effects are adverse. Obviously, the importance of individual characteristics will be different in different EAs. To assist the RA and the Minister in deciding whether the environmental effects are adverse, the proponent should be required to submit information on these factors.

The most common way of determining whether a project's environmental effects are adverse is to compare the quality of the existing environment with the predicted quality of the environment once the project is in place, using some or all of the criteria shown in Table 1 as variables. This method implies a need for environmental monitoring information collected over time and/or distance before the project is in place. It also assumes normal baseline environmental conditions, although this may not always be

the case (e.g., fluctuating water levels in a river). It is the proponent's responsibility to ensure that such information is put before the RA. In most cases, the proponent should be expected to collect and synthesize the available information on baseline environmental quality. In some cases where there are gaps in information, the proponent can be requested to collect new information, depending on the size and nature of the project and the proponent's resources.

Occasionally, information from other situations may be helpful in determining whether the environmental effects are adverse. For example, if there are similar or identical projects already in place in similar ecosystems, it may be helpful for the proponent to provide information on their environmental effects.

## **4.2 Step 2: Deciding Whether the Adverse Environmental Effects are Significant**

There are several criteria that should be taken into account in deciding whether the adverse environmental effects are significant. These are briefly discussed below:

### *Magnitude of the adverse environmental effect*

Magnitude refers to the severity of the adverse environmental effects. Minor or inconsequential effects may not be significant. On the other hand, if the effects are major or catastrophic, the adverse environmental effects will be significant. When using this criterion, it is important to consider the extent to which the project could trigger or contribute to any cumulative environmental effects.

**Table 1: Factors in determining adverse environmental effects**

Changes in the Environment	Effects on People Resulting from Environmental Changes
<ul style="list-style-type: none"> <li>• Negative effects on the health of biota, including plants, animals, and fish;</li> <li>• Threat to rare or endangered species;</li> <li>• Reductions in species diversity or disruption of food webs;</li> <li>• Loss of or damage to habitats, including habitat fragmentation;</li> <li>• Discharges or release of persistent and/or toxic chemicals, microbiological agents, nutrients (e.g., nitrogen, phosphorus), radiation, or thermal energy (e.g., cooling wastewater);</li> <li>• Population declines, particularly in top predator, large, or long-lived species;</li> <li>• The removal of resource materials (e.g., peat, coal) from the environment;</li> <li>• Transformation of natural landscapes;</li> <li>• Obstruction of migration or passage of wildlife;</li> <li>• Negative effects on the quality and/or quantity of the biophysical environment (e.g., surface water, groundwater, soil, land, and air).</li> </ul>	<ul style="list-style-type: none"> <li>• Negative effects on human health, well-being, or quality of life;</li> <li>• Increase in unemployment or shrinkage in the economy;</li> <li>• Reduction of the quality or quantity of recreational opportunities or amenities;</li> <li>• Detrimental change in the current use of lands and resources for traditional purposes by aboriginal persons;</li> <li>• Negative effects on historical, archaeological, paleontological, or architectural resources;</li> <li>• Decreased aesthetic appeal or changes in visual amenities (e.g., views);</li> <li>• Loss of or damage to commercial species or resources;</li> <li>• Foreclosure of future resource use or production;</li> </ul>



### *Geographic extent of the adverse environmental effects*

Localized adverse environmental effects may not be significant. Alternatively, widespread effects may be significant. When considering this criterion, it will be important to take into account the extent to which adverse environmental effects caused by the project may occur in areas far removed from it (e.g., acid rain and the long-range transportation of atmospheric pollutants), as well as contribute to any cumulative environmental effects.

### *Duration and frequency of the adverse environmental effects*

Long term and/or frequent adverse environmental effects may be significant. Future adverse environmental effects should also be taken into account. For example, many human cancers associated with exposure to ionizing radiation have long latency periods of up to 30 years. Obviously, when considering future adverse environmental effects, the question of their likelihood becomes very important.

### *Degree to which the adverse environmental effects are reversible or irreversible*

Reversible adverse environmental effects may be less significant than adverse environmental effects that are irreversible. In practice, it can be difficult to know whether the adverse environmental effects of a project will be irreversible or not. It will be important to consider any planned decommissioning activities that may influence the degree to which the adverse environmental effects are reversible or irreversible.

### *Ecological context*

The adverse environmental effects of projects may be significant if they occur in areas or regions that:

- have already been adversely affected by human activities; and/or
- are ecologically fragile and have little resilience to imposed stresses.

To assist the RA and the Minister in deciding significance, proponents should always be required to submit information on these criteria. All of them should be considered in deciding whether the adverse environmental effects are significant or not. Different criteria will be important in different EAs and the extent to which an individual criterion will influence the overall determination of significance will vary between assessments.

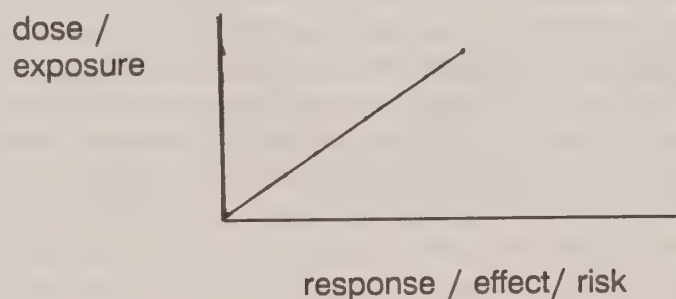
The most common method of determining whether the adverse environmental effects of a project are significant is to use environmental standards, guidelines, or objectives. If the level of an adverse environmental effect is less than the standard, guideline, or objective, it may be insignificant. If, on the other hand, it exceeds the standard,

guideline, or objective, it may be significant.

Environmental standards, guidelines and objectives have been established by federal, provincial, and in some cases municipal departments, ministries, and agencies. They often define either maximum levels of emissions or discharges of specific hazardous agents into the environment or maximum acceptable levels of specific hazardous agents in the environment. They are usually based on the results of studies in the field and with laboratory animals, available technology, and/or prevailing attitudes and values.

However, environmental standards, guidelines and objectives have been established only for a relatively small number of hazardous agents, such as some chemicals, radiation, and physical parameters including acidity and acceptable levels of particulates or suspended solids. Since there are no standards, guidelines, or objectives for most environmental effects, they cannot be used to determine the significance of many adverse environmental effects, nor do they necessarily protect ecological health. In addition, standards, guidelines, or objectives are set on the basis of individual hazardous agents and do not allow for any interactions that may occur (i.e., cumulative environmental effects).

Another method of determining significance is quantitative risk assessment, which is often used to determine the significance of the risks to human health from ionizing radiation and carcinogenic chemicals. Its use is restricted to agents that have predictable dose-response (or exposure-effect) relationships. Often derived from experiments using laboratory animals, these relationships usually approximate straight lines (see below).



The response, effect, or risk is often measured in terms of increased cancer incidence per million people exposed. In quantitative risk assessment, an "acceptable" level of risk is determined. Conventional levels for "acceptable risk" to the public are an increased incidence of between one in 10 thousand to 1 in 10 million. By using the dose-response relationship, it can be determined whether or not the dose/exposure

would result in an unacceptable level of risk. In other words, significance is determined on the basis of an "acceptable level" of a specified risk, often cancer incidence.

This approach assumes that there is an "acceptable" level of risk. In practice, occupational health and safety standards allow for a greater degree of risk than public exposure standards. The Delaney Clause in the U.S. *Food and Drugs Act* establishes zero as the acceptable or significant increased cancer risk associated with food additives. It is important to be clear on who determines acceptable risk levels as well as how they are determined when quantitative risk assessments are included in EAs. As well as determining significance, quantitative risk assessment can also be used to determine the probability of occurrence of significant environmental effects, i.e., likelihood.

If there are no relevant environmental standards, guidelines, or objectives and quantitative risk assessment is not possible, other methods and approaches must be used. In larger EAs, such as panel reviews, it may be possible to develop methods and approaches for determining significance for individual projects. In others, it will be necessary for the RA or the Minister to use a qualitative approach based on their best professional judgement.

When a project's adverse environmental effects are being compared to the adverse environmental effects of an alternative means of carrying out the project, weighting and ranking methods can assist in deciding whether the adverse environmental effects are significant. Generally, quantitative methods are used to weight or rank the individual adverse environmental effects of different alternatives which are then added to produce a total effect "score." These methods can be helpful in summarizing and comparing the effects of alternatives, but they can also hide the assumptions inherent in the weighting or ranking system. As well, weighting and ranking methods compare total effects, so that a locally significant individual effect may appear unimportant in the overall scheme. In other words, there is a loss of specificity. These problems can be at least partially resolved by ensuring that weighting and ranking exercises are conducted by those with a wide variety of experience and expertise.

Whatever methods are used to determine significance, they should be based on the criteria outlined above.

Cost-benefit analysis cannot be used to determine significance in federal EAs, because it compares the estimated environmental costs and benefits of a project, whereas the Act clearly states that only *adverse* environmental effects are to be considered in determining significance and likelihood. Although cost-benefit analysis could be used to justify proceeding with a project that is likely to cause significance adverse environmental effects, this justification can take place only *after* the likelihood of the significant adverse environmental effects has been determined.



### **4.3 Step 3: Deciding Whether the Significant Adverse Environmental Effects Are Likely**

When deciding the likelihood of significant adverse environmental effects, there are two criteria to consider:

#### *Probability of occurrence*

If there is a high probability that the identified significant adverse environmental effects will occur, obviously they are likely. Conversely, if there is a low probability of occurrence, the significant adverse environmental effects are unlikely.

#### *Scientific uncertainty*

There will always be some scientific uncertainty associated with the information and methods used in EAs. This is often termed the "confidence limits". If the confidence limits are high, there is a low degree of uncertainty that the conclusions are accurate and that the significant adverse environmental effects are likely or not. If the confidence limits are low, there is a high degree of uncertainty about the accuracy of the conclusion. In this case, it will be difficult to decide whether the significant adverse environmental effects are likely or not. If low scientific uncertainty can lead to an unambiguous conclusion of likelihood or unlikelihood, conversely high uncertainty cannot be a basis for a clear conclusion about likelihood. In this case, only the probability of occurrence criterion should be used to determine likelihood.

To assist the RA or the Minister in deciding likelihood, proponents should be required to submit information on these criteria.

The use of confidence limits has already been mentioned as a method of determining likelihood based on scientific certainty or uncertainty. Others include a range of statistical methods that are used to determine "statistical significance," which is usually defined as the low probability of error. Although statistical methods themselves are not discussed in this paper, it is useful to note the two commonly encountered types of statistical errors. Type 1 is a false positive, that is, a false conclusion that there will be a significant adverse environmental effect. Type 2 is a false negative, that is, a false conclusion that there will not be a significant adverse environmental effect. Statistical results provided by proponents should always be required to state the probabilities of making both types of errors.

Another method used to determine the probability of occurrence is quantitative risk assessment. (See section 4.2 above.)

RAs and the Minister should require proponents to use statistical methods to determine statistical significance, whenever possible. These methods will facilitate a determination of likelihood by the RA or the Minister. In EAs where numerical methods cannot be used or are not feasible, the RA or the Minister must use a qualitative approach to determining likelihood, based on their best professional judgement.

## 5. Further Reading

Allelt, E.J. 1986. EIA and Decision Analysis. *Journal of the Operational Research Society* 37: 901-10.

Ames, G. 1978. An Approach to the Determination of Significance in the Preparation of Environmental Assessments In: *Environmental Assessment: Approaching Maturity*, edited by Bendix and Graham, 25-33. Ann Arbor Science Publishers Inc. Ann Arbor, Michigan.

Bacow, L.S. 1980. The Technical and Judgemental Dimensions of Impact Assessment. *Environmental Impact Assessment Review* 1(2): 109-24.

Bakus, G., W. Stillwell, S. Latter and M. Wallerstein. 1982. Decision Making: With Applications for Environmental Management. 6(6): 493-504.

Caldwell, L.K. 1987. The Contextual Basis for Environmental Decisionmaking: Assumptions are Predeterminants of Choice. *The Environmental Professional* 9: 302-08.

Duinker, P.N., and G.E. Beanlands. 1986. The Significance of Environmental Impacts: An Exploration of the Concept. *Environmental Management* 10(1): 1-10.

Economic Commission for Europe. 1989. *Criteria for Determining the Environmental Significance of Projects*. Meetings of Experts on Environmental Impact Assessment, The Hague, Netherlands, November 27-28. United Nations Economic Commission for Europe. Netherlands.

Haug, P.T., R.W. Burwell, A. Stein, and B.L. Bandurski. 1984. Determining the Significance of Environmental Issues Under NEPA. *Journal of Environmental Management* 18: 15-24.

Hollick, M. 1981. The Role of Qualitative Decision Making Methods in EIA. *Journal of Environmental Management* 12(1): 65-78.

Hundloe, T., G.T. McDonald, J. Ware, and L. Wilks. 1990. Cost Benefit Analysis and Environmental Impact Assessment. *Environmental Impact Assessment Review* 10(1/2): 55-68.

Matthews, W.H. 1975. Objective and Subjective Judgements in Environmental Impact Analysis. *Environmental Conservation* 2(2): 121-31.

Rodericks, J.V., S.M. Brett, and G.C. Wrenn. 1987. Significant Risk Decisions in



Federal Regulatory Agencies. *Regulatory Toxicology and Pharmacology* 7(3): 307-20.

Rucklehaus, W.D. 1983. Risk and Public Policy. *Science* 221: 1026-28.

Sharma, R.K., J.D. Buffington, and J.T. McFadden. 1976. The Biological Significance of Environmental Impacts. Proceedings of a Conference on June 4-6, 1975 at the University of Michigan. NR-Conf 002. U.S. Nuclear Regulatory Commission. Washington, D.C.

Slovic, P. 1987. Perceptions of Risk. *Science* 236: 280-85.

Thompson, M.A. 1990. Determining Impact Significance in Environmental Impact Assessments. A Review of 24 Methodologies. *Journal of Environmental Management* 30: 235-50.

Travis, C.C., and H.A. Hattemer-Frey. 1988. Determining an Acceptable Level of Risk. *Environmental Science and Technology* 22(8): 873-76.

U.S. Army Corps of Engineers, Seattle District. 1983. *A Guide to the Analysis of Significance*. U.S. Army Corps of Engineers. Seattle, Washington.

Wolf, P.G. 1982. *User's Guide to Defining Significant Impacts under the Federal EARP*. Federal Environmental Assessment Review Office. Hull, Quebec.



## GLOSSARY



# Glossary

## *Acronyms used in the guide*

<b>Act</b>	<i>Canadian Environmental Assessment Act.</i>
<b>CEAA</b>	Canadian Environmental Assessment Agency
<b>EA</b>	environmental assessment
<b>EARP</b>	Environmental assessment and review process
<b>EIS</b>	environmental impact statement
<b>FEARO</b>	Federal Environmental Assessment Review Office
<b>RA</b>	responsible authority

## *Definitions from the Canadian Environmental Assessment Act*

### **environment**

the components of the Earth, and includes

- land, water, and air, including all layers of the atmosphere;
- all organic and inorganic matter and living organisms; and
- the interacting natural systems that include the above components

### **environmental assessment**

an assessment of the environmental effects of the project that is conducted in accordance with the Act and its regulations

### **environmental effect**

- any change that the project may cause in the environment, including any effect of such change on health and socioeconomic conditions, on physical and cultural heritage, on the current use of lands and resources for traditional purposes by aboriginal persons, or on any structure, site, or thing that is of historical, archaeological, paleontological, or architectural significance, and
- any change to the project that may be caused by the environment, whether any such change occurs within or outside Canada

### **federal authority**

- a federal Minister of the Crown;
- an agency or other body of the federal government ultimately accountable to Parliament through a federal Minister of the Crown;
- any federal department or departmental corporations set out in Schedule I or II to



- the *Financial Administration Act*; and
- any other body prescribed in the Act's regulations

**follow-up program**

a program for

- verifying the accuracy of the environmental assessment of a project; and
- determining the effectiveness of any measures taken to mitigate the adverse environmental effects of the project

**interested party**

any person or body having an interest in the outcome of the environmental assessment for a purpose that is neither frivolous nor vexatious

**mitigation**

the elimination, reduction, or control of the adverse environmental effects of the project, including restitution for any damage to the environment caused by such effects through replacement, restoration, compensation, or any other means

**project**

- in relation to a physical work, any proposed construction, operation, modification, decommissioning, abandonment, or other undertaking in relation to that physical work; or
- any proposed physical activity not relating to a physical work that is prescribed in the Act's regulations

**proponent**

the person, body, federal authority, or government that proposes the project

**record**

includes any correspondence, memorandum, book, plan, map, drawing, diagram, pictorial or graphic work, photograph, film, microfilm, sound recording, videotape, machine-readable record, and any other documentary material, regardless of physical form or characteristics, and any copy thereof

**responsible authority**

a federal authority that is required pursuant to subsection 11(1) of the Act to ensure that an environmental assessment of the project is conducted

**sustainable development**

development that meets the needs of the present, without compromising the ability of future generations to meet their own needs

***Terms used in the guide*****alternative means**

methods of a similar technical character or methods that are functionally the same; "alternative means" with respect to a nuclear power plant, for example, includes

selecting a different location, building several smaller plants, and expanding an existing nuclear plant

**alternatives to a project**

functionally different ways of achieving the same end; for example, "alternatives to" a nuclear power plant include importing power, building a hydroelectric dam, conserving energy, and obtaining the energy through renewable sources

**Agency**

Canadian Environmental Assessment Agency

**cumulative environmental effects**

the effects on the environment, over a certain period of time and distance, resulting from effects of a project when combined with those of other past, existing, and imminent projects and activities

**EA track**

the form of environmental assessment a project must undergo, whether a screening, comprehensive study, mediation, or panel review

**expert federal departments**

any federal authority in possession of specialist or expert information or knowledge with respect to a project

**federal support for a project**

the federal power, duty, or function that a federal authority exercises or performs in relation to the project, including acting as the proponent, or providing financial support, an interest in federal lands, or a federal permit or licence

**interest in land**

a right, claim, title to, or legal share in land

**lead RA**

where the same project has two or more RAs, one of the RAs may be designated as the lead for purposes of conducting the EA

**mediator**

the individual appointed by the Minister to conduct an environmental assessment by means of a mediation



**Minister**

Minister of the Environment

**public registry**

a system for providing convenient public access to documents relating to an EA

**public review**

for the purpose of this guide only, an environmental assessment by means of a mediation or a panel review

**scope of the assessment**

a determination of: the environmental effects to be addressed; the scope of the environmental effects to be assessed; and the effects to be considered in making decisions regarding the project

**scope of the project**

those components of the proposed development that should be considered part of the project for the purposes of the EA

**self-directed environmental assessment**

for the purpose of this guide only, an environmental assessment by means of a screening or comprehensive study

**trigger**

an action by a federal authority that triggers or initiates the need for an environmental assessment; that is, one or more of the following duties, powers, or functions in relation to a project:

- proposes the project;
- grants money or other financial assistance to a project;
- grants an interest in land for a project; or
- exercises a regulatory duty in relation to a project, such as issuing a permit or licence, that is included in the Law List prescribed in the Act's regulations



**SUBJECT INDEX TO THE  
*CANADIAN ENVIRONMENTAL  
ASSESSMENT ACT***





## **Subject Index to the *Canadian Environmental Assessment Act***

Following is a keyword subject index to the *Canadian Environmental Assessment Act*. It covers the key terms and topics included in the Responsible Authority's Guide, but is not a detailed index to the Act. The numbers refer to sections and subsections of the Act.

### ***Canadian Environmental Assessment Act* (Act)**

- annual report: s.71
- definitions: s.2(1)
- excluded projects: s.6
- five-year review: s.72
- projects to be assessed: s.5
- purposes: s.4

### **Canadian Environmental Assessment Agency (Agency)**

- duties: s.63(1)
- establishment of: s.61(1)
- objectives: s.62
- powers: s.63(2)
- role in assisting when more than one RA: s.12(2)
- role in class screening: s.19
- role in comprehensive study review: s.22

### **Class screening**

- necessary adjustments: s.19(5)
- public review: s.19(2)
- purpose: s.19(1)
- removal of declaration: s.19(6)
- request for declaration: s.19(1)
- use: s.19(4)

### **Comprehensive Study**

- comprehensive study report: s.21(a)
- decision of Minister following review of comprehensive study report: s.23
- decision of RA following comprehensive study: s.37(1)
- delegation of responsibilities by RA: s.17(1)
- factors to be considered: s.16(1)(2)
- need to consider design and implementation of a follow-up program: s.38(1)
- public review of comprehensive study report: s.22
- request for referral to mediation or panel during comprehensive study: s.25
- use of previously conducted EA: s.24

**Crown corporations**

- EAs by: s.8

**Cumulative environmental effects**

- factor to be considered: s.16(1)(a)
- need to adjust for in using a class screening report: s.19(5)

**Environment**

- definition: s.2(1)

**Environmental assessment (EA)**

- definition: s.2(1)

**Environmental effect**

- definition: s.2(1)

**Expert federal departments**

- participation of: s.12(3)

**Factors to be considered**

- in a screening: s.16(1)
- in a comprehensive study, mediation, or panel review: s.16(1)(2)
- scope of: s.16(3)

**Federal lands**

- definition: s. 2(1)
- EA of projects with significant adverse environmental effects on: s.48

**Federal-provincial agreements**

- relating to joint EAs: s.41

**Follow-up program**

- definition: s.2(1)
- design and implementation of: s.38(1)
- factor to be considered in an EA: s.16(2)
- public notice regarding: s.38(2)

**Interested party**

- definition: s.2(1)
- participation in mediation: s.29(2)

**Mediation**

- additional participants: s.31
- appointment of mediator: s.30

- appropriateness of mediation: s.29(2)
- decision of RA following mediation: s.37
- determination of scope of factors: s.16(3)
- factors to be considered: s.16(1)(2)
- need for following comprehensive study: s.23
- need for following screening: s.20
- privilege: s.32(2)
- public notice: s.36
- public notice regarding recommendations of mediator's report: s.38(2)(c)
- referral to by Minister: s.29(1)
- reference to a mediator during a panel review: s.29(3)
- report of mediator: s.32(1)
- roster of persons to act as mediators: s.30(2)

### **Minister of the Environment (Minister)**

- appointment of mediator: s.30
- appointment of panel review members: s.33
- decision following review of comprehensive study report: s.23
- establishment of joint review panel: s.40(2)
- establishment of terms of reference for mediation: s.30(1)(b)
- establishment of terms of reference for panel review: s.33(1)(b)
- provision of public notice on availability of report of mediator or panel: s.36
- referral of a project to mediation or panel review: s.29

### **Mitigation**

- definition: s.2(1)
- ensuring implementation following screening: s.20(2)
- ensuring implementation following comprehensive study, mediation, or panel review: s.37(2)
- public notice regarding mitigation measures: s.38(2)(b)

### **Panel review**

- appointment of review panel: s.33
- assessment by review panel: s. 34
- decision of RA following panel review: s.37
- determination of scope of factors: s.16(3)
- factors to be considered: s.16(1)(2)
- joint panel reviews: s.40
- need for following comprehensive study: s.23
- need for following screening: s.20
- powers of: s.35
- public hearings: s.34(b)
- public notice: s.36
- public notice regarding recommendations of panel's report: s.38(2)(c)



- referral to by Minister: s.29(1)
- reference to a panel review during a mediation: s.29(4)
- report of panel: s.34(c)
- roster of persons to act as panel members: s.33(2)

### **Project**

- definition: s.2(1)
- projects requiring EAs: s.5
- projects excluded from EAs: s.7

### **Provincial governments**

- agreements with federal government on joint EAs: s.41
- EA environmental assessment of projects that may cause significant adverse environmental effects across provincial borders: s.46

### **Public concerns**

- warranting a reference to a mediator or review panel, after a comprehensive study: s.23(b)
- warranting a reference to a mediator or review panel, after a screening: s.20(1)(c)

### **Public participation**

- purpose of Act: s.4(d)

### **Public comment**

- on a comprehensive study report: s.22(2)
- on a screening report: s.18(3)

### **Public notice**

- of availability of comprehensive study report for review and comment: s.22(1)
- of availability of proposed class screening report for review and comment: s.19(2)(a)
- of availability of screening report for review and comment: s.18(3)
- relating to projects for which the RA has taken action that enables the project to proceed: s.38(2)

### **Public registry**

- contents: s.55(3)
- categories of information to be included: s.55(4)
- description: s.55(1)
- maintained by: s.55(2)

## **Responsible authority**

- decision by following a comprehensive study, mediation, or panel review: s.37(1)
- decision by following a screening: s.20(1)
- definition: s.2(1)
- delegation of responsibilities in a screening or comprehensive study: s.17(1)
- determination of duties when more than one RA: s.12(1)
- determination of scope of factors to be considered: s.16(3)
- determination of scope of project: s.15
- ensuring implementation of mitigation measures following a comprehensive study, mediation, or panel review: s.37(2)
- ensuring implementation of mitigation measures following a screening: s.20(2)
- need to consider the design and implementation of a follow-up program: s.38(1)
- public registry responsibilities: s.55

## **Screening**

- decision of RA following a screening: s.20(1)
- delegation of responsibilities by RA: s.17(1)
- ensuring implementation of mitigation measures following a screening: s.20(2)
- factors to be considered: s.16(1)
- need to consider design and implementation of a follow-up program: s.38(1)
- public comments on screening report: s.18(3)
- request for referral to mediation or panel during screening report: s.25
- screening report: s.18(1)
- sources of information: s.18(2)
- use of class screening report: s.19(4)
- use of previously conducted EA: s.24

## **Scope of factors**

- determination of: s.16(3)
- factors not included: s.16(4)

## **Scope of project**

- determination of: s.15(1)
- EA for related projects: s.15(2)
- proposed undertakings to be considered: s.15(3)

## **Significant adverse environmental effects**

- role in determining Minister's decision following review of a comprehensive study report: s.23
- role in determining RA's decision following a comprehensive study, mediation or panel review: s.37(1)
- role in determining RA's decision following a screening: s.20(1)

## **Sustainable development**

- consideration of effects on sustainability of renewable resources: s.16(2)(d)
- purpose of Act: s.4(d)

### **Transboundary environmental effects**

- EA of projects involving significant adverse environmental effects across international borders: s.47
- EA of projects involving significant adverse environmental effects across provincial borders: s.46
- EA of projects involving significant adverse environmental effects on federal lands: s.48



## INDEX





## Index

- aboriginal persons 28, 66, 85, 88, 91, 136, 137, 146, 184, 189, 198
- aboriginal persons *see also* indigenous peoples
- Access to Information 161, 164, 167, 172, 176
- accountability 9
- Agency *see* Canadian Environmental Assessment Agency
- AIA *see* Access to Information
- Alberta 38, 68
- bilateral agreements 8, 37, 38, 60, 67, 78
- Bilateral Agreements for Environmental Assessment Cooperation 60
- Bill C-13 7
- Brundtland Commission *see* World Commission on Environment and Development
- Canada-Alberta Agreement for Environmental Assessment Cooperation 38, 68
- Canadian Council of Ministers of the Environment 1, 6-8, 10, 12, 13, 37, 40, 42, 48, 57, 60, 67, 97, 108, 132, 134-136, 139, 147, 148, 150, 157, 158, 170-172, 181-183, 185, 198, 201, 204, 205
- Canadian Environmental Assessment Agency 1-3, 10, 14, 15, 21, 24, 25, 27, 28, 30, 31, 33, 45-49, 51-53, 57, 60, 61, 63, 67, 76, 77, 93, 94, 96-99, 105, 111, 113, 115, 117, 118, 126, 127, 151, 155, 158-161, 174, 179, 185, 198, 201, 205
- checklists 103, 125
- class screenings 10, 15, 16, 24, 26, 32, 44-46, 48, 50, 51, 61, 66, 94, 96, 104, 139, 174, 179, 205, 206, 208, 209
- class screening reports 10, 24, 26, 32, 44-46, 48, 50, 51, 61, 66, 94, 96, 104, 139, 174, 179, 206, 208, 209
- community residents 24
- compliance 1, 2, 15, 25, 35, 40, 42, 48, 68, 103-105, 110, 125, 154
- comprehensive studies 2, 8, 10, 15-17, 21, 24-28, 27-32, 31-34, 37, 40-42, 47-50, 52-54, 60, 61, 63-68, 72, 75, 76, 79, 83-86, 89, 90, 93, 95-101, 103, 105, 108, 114, 118, 119, 123, 127, 130, 136, 138, 159, 174, 179, 184-186, 201, 202, 205-209
- comprehensive study checklists 105
- comprehensive study list 15, 27, 47, 50, 52, 61, 72, 130
- comprehensive study reports 24, 27, 28, 30, 32, 33, 37, 47-49, 52, 53, 60, 65, 67, 68, 79, 90, 93, 95-97, 100, 101, 105, 114, 118, 119, 127, 174, 179, 184-186, 205, 207-209
- Convention on Environmental Assessment in a Transboundary Context 15, 59
- cost recovery 22, 23, 64, 158, 162, 172-174, 176
- cost-sharing 8, 37, 67, 78
- cumulative environmental effects 3, 28, 32, 34, 45, 46, 50, 60, 74, 75, 83, 84, 83-87, 93, 95, 118, 134-142, 144-150, 153-155, 188, 190, 191, 201, 206
- Determining the Capacity of Renewable Resources to Meet Present and Future Needs 3, 85
- Determining Whether a Project is Likely to Cause Significant Adverse Environmental Effects 3, 90, 138, 148, 182
- document clearing 22, 23, 63, 64, 138, 148, 158, 160-167, 169, 170, 172, 174-178
- documentation 46, 50, 52, 79, 93, 95, 114, 134, 140, 174, 179, 182
- documents 8, 22, 30, 44, 63, 64, 99, 101, 104, 105, 120, 123, 134, 158, 160-164, 166, 169, 172-179, 182, 183, 202
- early application 9
- EARP guidelines 6, 7, 8, 21, 72, 183
- education 10
- EIS *see* environmental impact statements
- Emergencies Act* 57
- Environmental Assessment and Review Process (EARP) guidelines *see* EARP Guidelines
- environmental changes 87, 184, 189



environmental effects 3, 6, 8-10, 14-17, 20, 25-34, 36, 37, 42, 44-47, 50, 51, 53, 57-60, 64, 66-68, 70-72, 74, 75, 78-80, 83, 84, 83-91, 93-95, 99-102, 104, 105, 108, 115, 117-119, 121-124, 132, 134-150, 153-155, 181-193, 198, 200-202, 206, 208-210  
 environmental impact statements 36-37, 114-115, 118-120, 127, 174, 179, 198  
 exclusion list 50, 57, 130  
 expert federal departments 23, 24, 27, 30, 45, 46, 48, 49, 51, 52, 53, 76, 77, 82, 94-98, 105, 111, 113, 115, 139, 201, 206  
 facilitators 117, 126  
 FEARO *see* Federal Environmental Assessment Review Office  
 federal authorities 14, 23, 27, 45, 48, 49, 53, 54, 57-59, 76, 77, 97, 101, 110, 111, 113, 115, 121, 127, 169, 198, 200-202  
 Federal Court of Canada 98, 120  
 Federal EA Index 22, 63, 101, 160-163, 177-179  
 Federal Environmental Assessment Review Office 10, 134, 139, 148, 182, 198  
 Federal Environmental Assessment Review Office *see also* Canadian Environmental Assessment Agency  
 federal permit decisions 72  
 federal support 1, 19, 14, 16, 20, 30-33, 36, 37, 42, 44, 49-53, 59, 66, 71, 73, 74, 96, 98, 100-105, 108, 109, 111-115, 121, 123, 125, 185, 201  
 federal-provincial agreements 8, 78, 206  
 federal-provincial EA harmonization agreements 10  
 financial assistance 14, 20, 21, 58, 71, 202  
 financial assistance *see also* funding  
 follow-up program 3, 8, 16, 17, 25, 27, 29, 33, 34, 36, 37, 47, 50, 52, 66, 75, 95, 101-105, 110, 112, 114, 118, 121, 123, 124, 126, 127, 140, 142, 148, 149, 160, 174, 179, 200, 205, 206, 209  
 foreign governments 58  
 Framework for Environmental Assessment Harmonization 37, 60, 67  
 funding 1, 6-8, 14, 19, 73, 74, 77, 80, 103, 115, 125, 137, 184  
 funding *see also* financial assistance  
 harmonization 7, 8, 10, 37, 60, 67, 78, 110  
 health 3, 23, 28, 45, 57, 75, 77, 85, 86, 91, 136, 137, 146, 184, 189, 191, 192, 198  
 hearings 35-37, 109, 110, 114, 115, 120, 127, 207  
 heritage 3, 23, 28, 45, 75, 77, 85-87, 136, 137, 146, 184, 198  
 inclusion list 17, 57, 69, 74, 130  
*Indian Act* 14, 58  
 indigenous knowledge 82  
 indigenous peoples 24, 65, 82  
 indigenous peoples *see also* aboriginal peoples  
 intergovernmental cooperation 38, 68  
 international boundaries 15, 59  
 joint panels 8, 37, 67, 78  
 lands and resources 28, 85, 88, 91, 136, 137, 146, 184, 189, 198  
 law list 14, 21, 58, 59, 71, 130, 202  
 lead RA 31, 60, 77, 104, 105, 162, 201  
 mediation 2, 8, 16, 17, 21, 25, 26, 29-31, 33-37, 40, 42, 47, 48, 50, 52, 53, 61, 63, 67, 76, 78, 89, 90, 98, 99, 107-113, 115, 117-121, 123, 125-127, 136, 138, 159, 184-186, 201, 202, 205-209  
 mediation checklist 126  
 mediations 10, 148  
 mediators 10, 15, 23, 32, 34-37, 48, 59, 65, 98, 100, 109, 111-113, 115, 117-121, 123, 124, 126, 159, 164, 174, 179, 185, 201, 206-208

mitigation 16, 17, 21, 25, 26, 28, 30, 31, 33, 34, 36, 37, 44-47, 50, 52, 66, 71, 74, 79, 80, 88, 89, 93-95, 100-105, 109, 110, 112, 114, 117, 118, 121-127, 140-142, 145, 147, 148, 174, 179, 185, 186, 200, 207, 209

mitigation measures 16, 17, 25, 26, 28, 30, 31, 33, 34, 36, 37, 44-47, 50, 52, 66, 74, 79, 80, 88, 89, 93-95, 100-105, 110, 112, 114, 117, 118, 121-127, 140-142, 145, 147, 148, 174, 179, 185, 186, 207, 209

National Archives of Canada 166

*National Archives of Canada Act* 162

National Library 166

national security 12, 57, 87, 102, 123, 154, 155, 162, 164, 166, 170, 171, 178

Northwest Territories 14, 58

notification 8, 37, 38, 67, 68, 78, 101

official languages 22, 23, 33, 64, 101, 102, 123, 124, 144, 154, 158, 162, 166, 177, 178

one project, one environmental assessment 162

Our Common Future 6

panels 2, 10, 15-17, 21, 23, 25, 26, 29-37, 40, 42, 47, 48, 50, 52, 53, 59, 61, 63, 65, 76, 77, 89, 90, 98-100, 107-111, 113-115, 117-121, 123-125, 127, 136, 138, 148, 159, 164, 174, 179, 184, 185, 186, 192, 201, 202, 205-209

panel reviews 2, 10, 16, 17, 21, 23, 25, 29-31, 33-37, 40, 42, 48, 50, 52, 53, 61, 63, 76, 77, 89, 90, 98, 99, 107, 108, 109-111, 113-115, 117-121, 123, 125, 127, 148, 159, 185, 186, 192, 201, 202, 206-209

panel review checklist 127

participant funding program 7, 115

physical activities 3, 12, 17-19, 28, 54, 57, 60, 69, 70, 73, 74, 80, 81, 85-87, 130, 136, 137, 146, 165, 184, 191, 198, 200

principal project/accessory test 18, 69

private sector organizations 76

Privy Council Office, 167

procedural advice 10, 48, 51, 53, 113, 115

projects 3, 7-9, 12, 14-21, 24-32, 31-37, 42, 44-46, 48-54, 56-61, 63-81, 83-91, 93-96, 98-105, 108, 109, 111, 112-115, 117-125, 127, 135-146, 148, 149, 153-156, 159, 161, 162, 174, 177, 179, 181, 182-188, 190, 192, 198, 200-202, 207-209

project-environment interactions 79, 83

proponent 8, 16, 20, 21, 24, 25, 35, 42, 49, 50, 52, 60, 65, 68, 71, 77, 78, 81, 98, 103, 109, 111, 112, 114, 118, 119, 121, 125-127, 143, 174, 179, 187, 188, 200, 201

"proponent pays principle" 24, 77

proponents 1, 3, 38, 68, 144, 154, 164, 190, 193, 194

provinces 58, 67, 78, 154, 169, 170

provincial boundaries 15, 59

public 1-3, 6-10, 16, 21-28, 30-32, 31-37, 40, 44, 46-54, 57, 59, 61, 63-67, 75-77, 79, 88-90, 93-102, 104, 105, 107-116, 118-123, 125-127, 143-145, 155, 157-179, 185, 186, 191, 192, 196, 202, 205, 206-209

public access 21, 22, 63, 64, 159-161, 163, 173, 202

public comments 27, 30, 34, 46-48, 50, 52, 53, 75, 95, 97, 100, 118, 120, 121, 209

public concerns 16, 24, 25, 31-33, 48, 54, 64, 65, 76, 79, 90, 97-101, 104, 105, 108, 127, 185, 186, 208

public consultation 27, 47, 52, 88, 94, 95, 174, 179

public involvement 3, 24, 53, 65, 66, 96-98, 101, 104, 105, 114, 120, 123

public notice 16, 30, 33, 37, 50, 52, 53, 67, 101, 102, 104, 105, 112, 114, 120, 123, 126, 127, 206-208

public participation 6, 7, 9, 10, 21, 32, 50, 51, 63, 96, 158, 159, 174, 176, 177, 208

public registry 3, 8, 10, 21-23, 31, 36, 44, 50, 52, 54, 63, 64, 93, 95, 97, 101, 104, 105, 112-115, 123, 126, 127, 143, 157-173, 175-178, 202, 208, 209

public review 1, 2, 24, 25, 30, 31, 33-36, 40, 44, 48-53, 61, 64, 65, 67, 77, 79, 90, 96, 98-101, 107, 108, 110, 111, 115, 116, 119, 122, 123, 125, 161, 174, 179, 186, 202, 205  
 related projects 18, 69, 73, 209  
 renewable resources 3, 29, 34, 75, 84, 85, 91, 95, 118, 210  
 responding to requests 22, 23, 64, 158, 162, 175  
 responsible authorities 1-3, 14-28, 27-32, 31, 33-36, 40, 42, 44-54, 59-61, 63-72, 74-79, 85, 89, 90, 93-98, 100-105, 108-115, 117-127, 134, 139, 142, 159-179, 182, 185-188, 190, 192-194, 198, 200, 201, 205, 207-209  
 royal assent 7  
 scope of assessment 2, 15, 17-21, 25, 27, 32, 42, 44, 46, 50, 52, 68-75, 79, 89, 95, 104, 105, 113, 115, 117, 140, 141, 187, 202, 206, 207, 209  
 scoping 20, 23, 66, 68, 71, 76, 77, 79, 98, 141, 142, 145  
 screenings 2, 8, 10, 15-17, 21, 24-28, 27-32, 31-34, 37, 40-42, 44-51, 54, 60, 61, 63-68, 75-79, 83-86, 89, 90, 93, 94, 96-104, 108, 114, 118, 119, 127, 136, 138-140, 145, 147, 152, 159, 164, 174, 178, 179, 184-186, 201, 202, 205-209  
 screening checklist 104  
 screening reports 15, 24, 26, 28, 30, 32, 37, 44-46, 48, 50, 51, 60, 61, 65, 66, 68, 90, 93, 94, 96, 101, 102, 104, 114, 118, 119, 127, 139, 174, 179, 206, 208, 209  
 self-directed environmental assessments 2, 10, 15, 25, 27, 31, 40, 42, 49, 54, 64, 65, 68, 79, 83, 85, 86, 88, 93, 96, 98, 101, 103, 123, 202  
 significant adverse environmental effects 3, 9, 15, 16, 28, 30, 31, 33, 36, 44, 51, 53, 57, 59, 75, 89-91, 94, 95, 100, 108, 115, 121, 122, 138, 147, 148, 182, 183, 185-187, 192, 193, 206, 208-210  
 significant demand criterion 102, 123, 178  
 significant environmental effects 27, 44, 47, 182, 192  
 socio-economic conditions 87, 136, 137, 139, 146, 184  
 specialist information 23, 27, 45, 48, 77, 96, 97  
 Supreme Court of Canada 21, 72  
 sustainable development 6, 9, 10, 200, 209  
 sustainable use 84, 85, 95  
 terms of reference 23, 30, 34-36, 77, 109, 110, 112, 113, 115, 117, 126, 169, 174, 179, 191, 207  
 traditional ecological knowledge 82, 89, 186  
 training 1, 10, 146  
 transboundary effects 15, 59  
 uncertainty 7, 17, 79, 91, 102, 103, 117, 124, 126, 140-142, 144, 149, 193  
 undertakings 12, 17, 19, 57, 69, 70, 73, 74, 130, 209  
 World Commission on Environment and Development 6  
 Yukon 14, 58, 72









Canadian Environmental  
Assessment Agency

Agence canadienne  
d'évaluation environnementale

# Canadian Environmental Assessment Process

## A CITIZEN'S GUIDE



Canada



**The information in this guide is based on the *Canadian Environmental Assessment Act*. For more detail and greater precision, please refer to the legal text.**

Cat. No. EN106-25/2-1994E  
ISBN 0-662-22774-3  
Minister of Supply and Services Canada

## Foreward

If you wish to know more about the federal environmental assessment process as described in the *Canadian Environmental Assessment Act* (Act) and its regulations and how you can get involved in the process, this guide is for you. It provides the following **general information on key aspects of the process**:

- an explanation of environmental assessment;
- the principles and purpose of the Act;
- the role of the Canadian Environmental Assessment Agency (Agency/CEAA);
- an overview of the federal environmental assessment process; and
- the role of the public.

## A Practical Guide

We have made this a practical guide by using a question and answer approach. We have tried to anticipate questions you might ask; but, if we have missed any please let us know. In order to better serve you, we will be happy to incorporate your ideas into future editions. You will find our address below.

## A Glossary of Terms

We have placed a glossary of terms in alphabetical order at the end of this guide. You will come across these terms in bold type the first time they appear in the text.

## Help

A comprehensive statement of the legal rights and obligations created by the Act and its regulations can be found in the legal text. Should you have any questions, the Agency will be happy to help you. Please call or write:

The Canadian Environmental Assessment Agency  
Communications Service  
200 Sacré-Coeur Boulevard  
Hull, Quebec  
K1A 0H3  
(819) 997-2727 (TEL)  
(819) 953-2891 (FAX)

## CONTENTS

### 1. ENVIRONMENTAL ASSESSMENT

What is environmental assessment?

What is the *Canadian Environmental Assessment Act*?

Does the Act have any regulations?

Are there any other regulations?

What is the Canadian Environmental Assessment Agency?

When must the federal government carry out an environmental assessment?

Are there any other reasons for carrying out an environmental assessment?

What is a project?

Are there any projects excluded?

### 2. YOUR PARTICIPATION IN THE PROCESS

Public participation

Who is the public?

What is the federal environmental assessment process?

How does the process work?

How does the Agency encourage public involvement?

How can I participate in the process?



### **3. FOUR TYPES OF ENVIRONMENTAL ASSESSMENTS**

#### **SELF-DIRECTED ASSESSMENTS**

##### **a. Screening**

What is a screening?

What factors must a screening address?

What happens after a screening assessment?

How can I get involved in a screening?

##### **Class Screening**

What is a class screening?

How can I take part in a class screening?

##### **b. Comprehensive Study**

What is a comprehensive study?

What factors must a comprehensive study address?

What is the role of the Minister of the Environment?

How can I get involved in a comprehensive study review?

#### **INDEPENDENT ASSESSMENTS**

What kinds of projects are referred for independent assessment?

How can I take part in such an assessment?

##### **c. Mediation**

What is mediation?

How can I take part in a mediation?

**d. Panel Review**

What is a panel review?

What is a panel?

Specifically, what do panels do?

How can I take part in a panel review?

What are hearings like?

How will I know when I can make comments on the project?

Whom can I contact for more information?

Do I have to prepare a written brief?

Can I submit a written brief after the cut-off date?

Can I submit documents and reports at the hearings?

Must I receive an invitation from the panel to present a brief?

Can I ask questions or make short statements at the meetings?

Can I speak more than once?

Will I be cross-examined after I speak?

Is evidence given under oath?

What if I cannot make it to a specific hearing session, but have something I want to tell the panel about the subject of the particular session?

Can environmental assessments be conducted with other governments?

What happens to a project after an independent assessment?

#### **4. THE PUBLIC REGISTRY**

What is the public registry?

Is there a fee for the documents?

What kind of documents are found in the public registry?

How would I go about finding a document?

Where can I get more information about the public registry?

#### **5. THE PARTICIPANT FUNDING PROGRAM**

What activities are funded?

Who is eligible?

How is funding awarded?

Where can I get more information about the funding program?

#### **GLOSSARY**



## 1. ENVIRONMENTAL ASSESSMENT

### What is environmental assessment?

Environmental assessment is an important planning and decision-making tool. It is an organized information gathering process used to identify and understand the effects of proposed projects on the bio-physical environment (air, water, land, plants and animals) as well as on the social and economic environments of the people to be affected.

In pursuing the goal of **sustainable development**, the government uses planning tools such as environmental assessment. Consideration of environmental effects early in the planning stages of a project promotes better planning. Environmental effects are identified, assessed, and where possible, plans are made to minimize these effects before irreversible decisions are made. Environmental assessment can save time and money.

The process also promotes public discussion of a proposal. This leads to a consideration of those effects which cannot always be identified or measured by scientific or technological means. It also give the public an opportunity to have input into the decision-making process.

### What is the *Canadian Environmental Assessment Act*?

The *Canadian Environmental Assessment Act* is the legal basis for the federal environmental assessment process. The Act sets out, for the first time in Canadian legislation, the responsibilities and procedures for carrying out the environmental assessments of projects which involve the federal government.

The Act is founded on a number of guiding principles:

- A healthy environment and healthy economy can be achieved by making sure that the impacts on the environment are known before federal decisions are made.
- The environmental assessment process should be applied as early as possible in the planning stages of a project.
- The level of effort required to carry out an environmental assessment should match the scale of the likely adverse environmental effects of a project.

- Public participation is an important element of an open and balanced environmental assessment process.

## **Does the Act have any regulations?**

As with many acts, the Act requires a number of regulations to put its procedures into effect and to clarify its requirements and scope in certain circumstances. A number of regulations are being developed for the Act, through extensive consultations. Of these regulations, four are critical to the proper functioning of the Act:

- Law List;
- Exclusion List;
- Inclusion List.
- Comprehensive Study List;

## **Are there any other regulations?**

Yes. In addition to these key regulations, others are currently under development. These include the following regulations:

- One Project/One Assessment
- Minimal Federal Involvement
- Indian Reserve Lands and Band Funding
- Projects Outside Canada
- Crown Corporations and Harbour Commissions
- Offshore Boards

## **What is the Canadian Environmental Assessment Agency?**

The Act establishes the Canadian Environmental Assessment Agency (Agency/CEAA) to administer and promote the federal environmental assessment process policies and practices. The Agency replaces the Federal Environmental Assessment Review Office (FEARO) which has administered

the environmental assessment process since 1974, under the Environmental Assessment Review Process (EARP) Guidelines Order. The Agency operates independently from any other federal department or Agency; the president of the Agency reports directly to the Minister of the Environment.

The Agency has four key roles:

1. administering the environmental assessment process;
2. providing legal, procedural and policy advice to the Minister of the Environment on the Minister's responsibilities under the Act;
3. providing opportunities for public participation in the federal environmental assessment process; and
4. promoting sound environmental assessment practices.

The Agency administers the federal environmental assessment process chiefly by

- advising federal departments and agencies on their obligations under the Act;
- providing administrative support for public reviews;
- reviewing certain environmental assessment reports to ensure compliance with the Act;
- working with other jurisdictions, e.g. the provinces, to ensure that environmental assessment processes are harmonized whenever projects in which both governments have jurisdiction are reviewed;
- ensuring that there are opportunities for the public to participate in the process; and
- providing some measure of funding to help the public participate in the public reviews.

The Agency also has a broader role in promoting sound environmental assessment practices in Canada and abroad. Through its work with federal departments and agencies, **project proponents**, provincial, municipal, and territorial governments, interested public groups, and international organizations, the Agency



- promotes the principles of sustainable development and public involvement in environmental assessment;
- works to ensure a consistent application of environmental assessment in all regions of the country;
- supports research to improve environmental assessment methods; and
- promotes international cooperation on environmental assessment by learning from, sharing information with, and offering Canadian expertise to other countries.

Finally, through public information booklets, fact sheets, bulletins, and an annual report to Parliament tabled by the Minister, the Agency also promotes greater public awareness of the important role environmental assessment plays in Canada.

## **When must the federal government conduct an environmental assessment?**

The federal environmental assessment process is applied whenever a **federal authority** exercises one or more of the following duties, powers or functions in relation to a project (Act, Section 5):

- proposes a project;
- sells, leases, or otherwise transfers control or administration of land to enable a project to be carried out;
- contributes money or any other form of financial assistance to a project;
- exercises in relation to the project a regulatory duty (such as issuing a license, permit and approvals) that is included in the **Law List** regulation .

## Are there any other reasons for conducting an environmental assessment?

If a project does not involve any of the actions or decisions described in Section 5 of the Act, and no other federal act or regulations apply, an environmental assessment under the Act may still be possible. If the Minister of the Environment believes a project has the potential to cause significant adverse environmental effects across boundaries between non-federal and federal lands, provincial boundaries or international boundaries, the Minister may require an environmental assessment of a project if there is no agreement between the interested governments about how to conduct an assessment. These "transboundary" provisions are only used if there is no other way of ensuring that an environmental assessment is conducted.

## What is a project?

A project can be either:

- i) an undertaking in relation to a physical work;
- or
- ii) an undertaking not related to a physical work which is described in the Inclusion List regulation.

Physical works are physical things that are constructed and have a fixed location. An undertaking is any activity carried out in relation to a physical work, such as its construction, operation, modification, decommissioning or abandonment. Examples of this type of project include the construction (undertaking) of a bridge (physical work), modifications to a pulp and paper mill and the abandonment of a uranium mine. Most projects subject to environmental assessment under the Act will be of this type.

An undertaking not in relation to a physical work is a project for purposes of the Act if it is described in the Inclusion List regulation. This regulation is designed to include those activities that could result in **significant adverse environmental effects**. Examples of these kinds of activities include dredging to ensure navigation through a waterway and the low-level flying of military jets.

## Are any projects excluded?

A project may be exempted from an environmental assessment if it

- is described on the Exclusion List regulation as a project likely to have insignificant environmental effects;
- is excluded by regulation for reasons of national security;
- involves minimal federal involvement, as defined by regulation (applicable only to undertakings in relation to a physical work);
- is to be carried out in response to a national emergency for which temporary special measures are being taken under the *Emergencies Act*;
- is to be carried out in response to an emergency and the project is in the interest of preventing damage to property or the environment or is in the interest of public health or safety.

## 2. YOUR PARTICIPATION IN THE PROCESS

### Public Participation

Public participation is an important element of an open and balanced environmental assessment process. It strengthens the quality and credibility of environmental assessments. The public is an important source of local and traditional knowledge about a project's physical site and likely environmental effects. Through public participation activities, project proponents can obtain this information, better understand and respond to public concerns, and inform people about decisions. With this in mind, the Act provides opportunities for public input at most stages of the environmental assessment process.

There are four types of environmental assessment, each with varying degrees of public participation. These types, screenings, comprehensive studies, mediations and panel reviews will be described in greater detail below.



## Who is the public?

The public is not a single entity. Rather, it represents many interests, including

- local residents,
- Aboriginal persons and communities,
- local and regional government officials,
- community organizations, such as homeowner groups, senior citizens organizations, service clubs and conservation groups,
- professional and business associations,
- small business owners,
- educational institutions,
- public interest groups and
- the media.

## What is the environmental assessment process?

The environmental assessment process is a systematic approach to documenting the environmental effects of a proposed project and determining the need to eliminate or minimize (mitigate) these effects; to modify the project plan; or to recommend further assessment.

A guiding principle of the Act is that the level of effort required to carry out an environmental assessment should match the scale of the likely adverse environmental effects of the project. As a result, there are four types of environmental assessments: screenings (including class screenings), comprehensive studies, mediations and panel reviews. These four types fall under two categories: **self-directed assessments** and **independent assessments**. The four types of environmental assessment are not mutually exclusive as some projects may undergo more than one type of environmental assessment.

The majority of federal government projects, about 99 per cent, requiring an environmental assessment will undergo either a screening or a comprehensive study. These types of environmental assessment fall under the "self-directed" category since the responsible authority is required to ensure that the assessment is carried out in compliance with the Act.

The other two types, mediation and panel review, fall under the independent assessment category. They are "independent" because mediators and panels are appointed by the Minister of the Environment to conduct an assessment independent of government. Public participation is more extensive in this category.

Whichever type of environmental assessment is carried out, the primary purpose is always the same: to determine whether or not the project, taking into account any **mitigation measures**, is likely to result in significant adverse environmental effects.

## How does the process work?

Briefly, an environmental assessment is usually required, whenever federal departments and agencies propose a project, provide funding or land for a project or exercise a regulatory duty for a project to go ahead. Only those regulatory duties (issuing a licence or permit) which are included on the Law List regulation will trigger an environmental assessment. However, before proceeding with the assessment, federal authorities must first determine if the Act applies to the project.

If the Act does apply, then the **responsible authority** proceeds either with a self-directed screening or comprehensive study. Each type of assessment is described in detail below. At any time during a screening, a responsible authority can refer the project to the Minister of the Environment for mediation or panel review, if it is likely to cause significant adverse environmental effects or if public concerns warrant.

Once a responsible authority completes the screening, then it must make a determination on whether to proceed with the project or to require further assessment.

Following a comprehensive study, the responsible authority prepares a report for the Minister of the Environment. The Minister, after studying the report, determines whether further assessment is required. If not, the project may proceed or be cancelled. The Minister may also refer the project for

independent assessment.

In situations where a project has the potential for significant transboundary effects, the Minister can call for an independent assessment by a mediator or a panel, if there is no other way of conducting a review that is agreeable both to the Minister and to the other jurisdiction(s). This would occur whenever the Minister of the Environment believes a project has the potential to cause significant adverse environmental effects across boundaries between non-federal and **federal lands**, provincial boundaries or international boundaries that would otherwise not be assessed under the Act or subject to any other federal statute or regulation.

Following an independent review by a mediator or panel, a report is submitted to the Minister of the Environment and the responsible authority. The government must then review the conclusions and recommendations of the report and make a decision whether or not to proceed with the project and under which conditions. You will find more detailed information below.

## **How does the Canadian Environmental Assessment Agency encourage public involvement?**

The Agency encourages involvement in a number of ways by

- ensuring the public has an opportunity to comment on proposed **class screenings** and comprehensive study reports;
- providing funds (see "Participant Funding Program" below) to interested groups so that they may participate in mediation and panel reviews;
- working with federal departments and project proponents on effective approaches to involving the public; and
- advising federal departments on how to create and maintain a public registry (see below) containing records relating to environmental assessments.

## **How can I participate in the process?**

Each of the four types of environmental assessment present different opportunities for public involvement in the process.



## SELF-DIRECTED ASSESSMENTS

Self-directed assessments are those undertaken by a responsible authority for a project. They can be undertaken by either a screening or a comprehensive study.

## SCREENING

### What is a screening?

Screening is a systematic approach to documenting the environmental effects of a proposed project and determining the need to eliminate or minimize (mitigate) these effects; to modify the project plan; or to recommend further assessment through mediation or a panel review. It is conducted by the project's responsible authority and is the most flexible type of assessment, accommodating both simple, routine projects as well as larger projects.

Screenings will vary in time, length, and depth of analysis, depending on the circumstances of the proposed project, the existing environment, and the likely environmental effects. Some screenings may require only a brief review of the available information and a one-or two-page report; others may need new background studies and be as thorough and rigorous as a comprehensive study.

The responsible authority must prepare or ensure the preparation of a report which summarizes the findings of the screening.

### What factors must a screening address?

A screening must address the following factors:

- the environmental effects of the project including **cumulative effects**, and the effects of possible accidents or malfunctions;
- the significance of the environmental effects;
- technically and economically feasible measures that would reduce or eliminate any significant adverse environmental effects of the project;

- any other matter relevant to the screening that the responsible authority may feel is necessary for an accurate assessment of the environmental effects;
- public comments, if any.

## What happens after a screening assessment?

A responsible authority must determine whether or not to take action that will enable the project to proceed - that is, whether (as the proponent) to proceed with the project, or otherwise to provide the funding, land interest, permit or other authorization.

However, the responsible authority must not take any **action that enables the project to proceed**, if the project is likely to cause significant adverse environmental effects (taking into account any appropriate mitigation measures).

Alternatively, if the screening has identified the need for further review, the responsible authority must ask the Minister of the Environment to refer the project to mediation or a panel review.

Further review is necessary when

- it is uncertain whether the project is likely to cause significant adverse environmental effects; or
- the project is likely to cause significant adverse environmental effects and it is uncertain whether these effects are justified in the circumstances; or
- public concern warrants it.

## How can I get involved in a screening?

If you are concerned about a project in your area, you can consult the **public registry** (see below) to determine if an environmental assessment is underway. If yes, then you can contact the **responsible authority** (the department or agency conducting the assessment).

Public involvement in a screening is at the discretion of the responsible

authority and depends on such factors as the nature of the project, its environmental setting and public concerns.

The responsible authority may solicit public input into the areas to be covered by the assessment. As well, depending on the situation, the responsible authority may provide an opportunity for public review and comment on the screening report before any decisions are made on the project. This public input should be taken into consideration when the responsible authority decides the next step in the environmental assessment process.

## **Class Screening**

### **What is a class screening?**

The screening of some routine projects, such as dredging, culvert installations, highway maintenance, shoreline stabilization and building construction may be streamlined through the use of a class screening report. A class screening report presents the accumulated knowledge of the environmental effects of a given type of project, and identifies the known measures to reduce or eliminate the likely adverse environmental effects.

Under the Act, a responsible authority can apply to the Agency to have a screening report (or reports) declared as a class screening report for future projects.

A class screening report is considered acceptable for any class of project where there is a sound knowledge of the environmental effects and appropriate mitigation measures, such as classes of projects that are routine and repetitive. In applying a class screening report to a project, however, the responsible authority must still take into account site-specific circumstances and cumulative environmental effects.

Once approved by the Agency, a class screening report can be used in whole or in part by any responsible authority as a model in conducting screenings of other projects within the same class.



## How can I take part in class screening?

Before any proposed screening report is designated as a class screening report by the Minister of the Environment, the public must be notified and given an opportunity to comment on the report. The Agency must then take the public comments into account in making a decision on the designation.

## COMPREHENSIVE STUDY

### What is a comprehensive study ?

The majority of federal projects can be expected to be assessed through a screening or class screening. However, some will require a more intensive assessment, called a comprehensive study. These projects are described on the Comprehensive Study list regulation of the Act. These tend to be large projects having the potential for significant adverse environmental effects and that generate public concern. Examples of such projects include large oil and natural gas developments, projects in national parks, nuclear power developments, major electrical-generation projects, and large industrial plants.

### What factors must a comprehensive study address ?

The comprehensive study must address the same factors as a screening, as well as the following factors:

- the purpose of the project;
- alternative means of carrying out the project that are technically and economically feasible as well as the environmental effect of any alternative means;
- the capacity of renewable resources that are likely to be significantly affected by the project;
- public comments;
- the need for, and the requirements of, any **follow-up program**.

Prior to making any decision on the project, the responsible authority submits the comprehensive study report to the Agency for review. The

Agency ensures that the report has been prepared in compliance with the Act, and publishes a notice advising that the report is available for public review and comment. Prior to the deadline set out in the public notice, any person may file comments with the Agency relating to any aspect of the report.

## **What is the role of the Minister of the Environment?**

The Minister of the Environment determines the next step in the project's environmental assessment, based on the results of the comprehensive study, the Agency's review of the report and public comments on it. The Minister will refer the project back to the responsible authority for appropriate action when the project

- is not likely to cause significant adverse environmental effects (taking into account appropriate mitigation measures, if necessary); or
- is likely to cause significant adverse environmental effects that cannot be justified under the circumstances.

If the project is not likely to cause significant adverse environmental effects, the responsible authority can support the project; if the adverse environmental effects are significant and cannot be justified, the responsible authority cannot support the project.

The Minister will refer the project for further review through mediation or a public panel review when

- it is uncertain whether the project is likely to cause significant adverse environmental effects; or
- the project is likely to cause significant adverse environmental effects and it is uncertain whether these effects are justified in the circumstances; or
- public concerns warrant it.

## How can I get take part in a comprehensive study review?

As with a screening, if you are concerned about a project in your area, you can consult the Public Registry (see below) to determine if an environmental assessment is underway. If yes, you can then contact the **responsible authority** (department or agency conducting the assessment) to make your concerns known.

The responsible authority may hold a meeting to gather public input into the areas to be covered by the assessment.

In addition, the responsible authority may decide to provide the public with an opportunity to contribute information during a comprehensive study. This public input must be taken into account by the Minister of the Environment when determining the next step in the environmental assessment process. The public must have an opportunity to review and comment on comprehensive study reports before any decisions are made on the projet.



## INDEPENDENT ENVIRONMENTAL ASSESSMENTS

### What are independent environmental assessments?

Independent assessments are those conducted by a mediator or panel appointed by the Minister of the Environment. The assessment is conducted independently from government. Upon completion of the independent assessment, a report with conclusions and recommendations is prepared for the Minister of the Environment and the responsible authority. Recommendations are advisory. The government then makes the final decision on taking action that enables the project to proceed.

### What kinds of projects are referred for independent assessment?

A project would be referred to a mediator or panel when

- it is uncertain whether the project is likely to cause significant adverse environmental effects; or
- the project is likely to cause significant adverse environmental effects and it is uncertain whether these effects are justified in the circumstances; or
- public concerns warrant it.

A project can be referred for independent review at any time during a screening or comprehensive study.

Review by a mediator or a panel may also be required where a project may result in **transboundary effects** across federal and non-federal lands, provincial boundaries and international boundaries.

### Can I take part in these reviews?

Extensive public participation is a distinguishing feature of mediation and panel reviews. The public is afforded an opportunity to participate in a thorough study of the environmental effects of projects. We will explore your role in greater detail below for each of these types of review.

## MEDIATIONS

### What are mediations ?

Mediation is a voluntary process of negotiation in which an independent and impartial mediator helps **interested parties** resolve their issues. The mediator is appointed by the Minister of the Environment after consultation with the responsible authority and the interested parties.

Mediation can address all of a project's environmental assessment or it can be used in combination with a panel review. For example, it may support a panel by bringing the parties together to resolve specific questions, such as the determination of the most effective mitigation measures.

Mediation can produce many benefits. It can be sensitive to local concerns and be less costly and time consuming than a panel review. Participants may also gain a sense of having contributed to the resolution of a problem.

Mediation is an appropriate option when the interested parties are willing to participate and a consensus seems possible. It is particularly effective where there are only a few interested parties and the issues are limited in scope and number.

### How can I take part in a mediation?

Although mediation sessions are not usually open to the general public, individuals and organizations having a direct interest in or directly affected by a proposed project are encouraged to participate. A public information program, in which the general public is kept informed of the progress of talks, is frequently part of mediation.

If mediation does not seem to be resolving the disputes, the environmental assessment of a project will be referred by the mediator to the Minister of the Environment for a panel review.

## PANEL REVIEW

### What is a panel review ?

A panel review is used where mediation is not appropriate or has not been successful - for example, when there are too many interested parties or unresolved issues. Like mediation, it may be used for part or all of the environmental assessment.

Only the Minister of the Environment can order a panel review. Nevertheless, the responsible authority for a project may recommend a panel review before, during or following a screening or comprehensive study. Following a referral, the Minister, after consulting with the responsible authority, appoints the chairperson and panel members and establishes the panel's **terms of reference**.

Panel reviews have the unique capacity to encourage an open and frank discussion and exchange of views, inform and involve large numbers of concerned groups and members of the public by allowing individuals to present evidence, concerns and recommendations at public hearings. These hearings are structured, but relatively informal. Under the Act, a panel has the authority to summon any person as a witness; to order the witness to give evidence; and produce any materials or documents considered necessary for conducting the environmental assessment.

Panel hearings must be public unless the panel is satisfied that specific, direct, and substantial harm would be caused to the witness by a public hearing. The participation of the public in panel reviews may be facilitated by the Participant Funding Program (see below), a program which funds eligible individuals and public organizations with a legitimate interest in the project.

In panel reviews, members of the public may participate in **scoping meetings** to identify issues that need to be addressed, and later may appear before the panel in public hearings to present their evidence, concerns and recommendations.



## **What is a panel?**

An environmental assessment panel is a group of experts, usually three, selected on the basis of their knowledge and expertise and appointed by the Minister of the Environment. The Minister also appoints one of the panel members as chairperson.

Special care is taken to guard against the possibility of conflict of interest and to preserve the independence of the panel. Panels report directly to the Minister of the Environment and to the responsible authority.

## **Specifically, what do panels do?**

The actions of a panel that culminate in the final report to Ministers are outlined in the answer to the next question. Panels not only seek technical and scientific information, but also want to receive your considered opinions and comments. What the panel wants from the public is a representative feedback about the subject in question. The panel needs to hear all sides of a question -- the plusses as well as the minuses.

## **How can I take part in a panel review?**

There are many opportunities for public participation in a panel review. The following list of the major steps which may occur in a typical panel review of a project details those opportunities:

- 1) Terms of reference for the panel are established by the Minister of the Environment jointly with the responsible authority.
- 2) The Minister of the Environment appoints the panel. The panel then develops and releases operating procedures.
- 3) The panel holds scoping meetings to listen to the issues and concerns of the public. Public meetings are kept as informal as possible; they are not legal proceedings. The aim is to establish face-to-face contact between the panel and the people with a minimum of go-betweens.

The panel places a public notice in local newspapers announcing the date and location of a scoping meeting. The public may show up at the meeting to express its views.

- 4) The panel, taking account of presentations during the scoping meetings, drafts guidelines for the preparation by the project proponent of an **environmental impact statement (EIS)**. The panel then releases the guidelines for public comment before releasing the final version.
- 5) The proponent responds to all of the questions in the guidelines in its EIS.
- 6) When the panel receives the EIS, it is released to the public for a minimum 60-day review period to allow for comments on the adequacy of the EIS as a response to the guideline
- 7) If the panel determines that the EIS is complete, hearings are scheduled with a minimum 21-day notice.
- 8) If the panel finds the EIS incomplete, it will issue a statement of the additional information which the proponent must provide before the scheduling of public hearings.
- 9) The panel holds public hearings to receive views and opinions on the merits of the proposals. While the hearings focus on the EIS, the discussion is not confined to this document.

The panel will give public notice of the time and place for the hearings and will ask members of the public to register if they wish to make a presentation. Procedures for participation are sent to members of the public who ask to be placed on the panel's mailing list.

- 10) The panel prepares a report containing its conclusions and recommendations to the ministers.
- 11) The ministers release the report to the public.

Members of the public on the mailing list will receive either a copy of the report or a summary of the conclusions and recommendations. Members of the public, not on the list but wishing to receive a copy of the report, can write or call the Agency.

- 12) The government publicly responds to the panel's recommendations.

## **What are hearings like?**

Hearings are structured but informal. They usually last from three to nine days overall. Sessions are usually held in the afternoons and evenings. The public can participate in all the stages outlined below. Hearings usually proceed as follows:

- The proponent outlines the project and its own point of view of the environmental effects;
- Specialist government departments present highlights of their review of the EIS and of the project;
- Separate sessions are held to discuss specific major issues (These are selected by the panel on the basis of what it has received in written comments earlier. The issue sessions are always announced in advance.);
- Participants make closing statements to summarize their position, incorporating information learned during the meetings;

## **How will I know when I can make comments on the project?**

When the EIS becomes available, the panel will notify you on how you can obtain a copy. Where necessary the executive secretary of the panel may visit local communities to meet with local officials, citizens groups and local reporters to let them know that public comment is requested. In some localities, you may be informed by direct mail.

## **Whom can I contact for information?**

The usual contact is the executive secretary of the panel. The local announcement mentioned above will identify this individual and tell how you can reach this person. In some cases, the Agency opens a local office to handle such questions. You may also call the Agency collect at (819) 997-1000 or if it is closer, the Vancouver office at (604) 666-2431 or the Edmonton office at (403) 495-6434.



### **Do I have to prepare a written brief?**

No. At the hearings you can deliver your comments verbally. These will be recorded in the general transcript.

Public interest groups, technical agencies and individuals who wish to submit written briefs should do so three or four weeks before the scheduled hearings. The panel's executive secretary will arrange to reproduce all comments received by the date specified and circulate them to interested parties. By observing these time limits, all parties will have time to study the briefs and prepare for a useful discussion of them at the hearings.

### **Can I submit a written brief after the cut-off date?**

Yes. However, if your brief is technical, lengthy or controversial, it may not be possible to deal with it adequately at the meetings since all sides will not have had time to study it. As a result, the panel may not be able to attach as much importance to it as it would otherwise. In summary: a brief submitted after the cut-off date, should be short and concise.

### **Can I present documents and reports at the hearings?**

Yes, although again in the interest of fairness to all sides, these should be brought forward as early as possible. The panel will consider all material received. It is not necessary to read lengthy documents or reports "into the record" at the meetings. They can be summarized and tabled for panel consideration after the meetings. The panel executive secretary will attempt to provide copies of tabled material to interested parties including the proponent. However, books and lengthy reports, etc. cannot be reproduced.

### **Must I receive an invitation from the panel to present a brief?**

No. Anyone wishing to be involved should contact the panel executive secretary to get on the speaker's list. It helps in scheduling hearings, if you can advise the executive secretary beforehand that you wish to speak.

## **Can I ask questions or make short statements at the meetings?**

Yes. At the discretion of the panel chairperson there is a question period after each speaker. The panel executive secretary compiles a list of speakers for each session. You should notify this individual if you wish to make a brief statement (orally or in writing).

## **Can I speak more than once?**

Yes. There is no specific restriction on speaking, subject to the discretion of the chairperson. You can register with the panel executive secretary to speak on one or more issues that are of concern to you or your group. Time limits (usually fifteen to twenty minutes) are imposed by the chairperson, particularly where a number of speakers wish to speak on a specific subject, to enable as many viewpoints as possible to be heard. You should be able to capture the essence of what you want to say within this time frame.

## **Will I be cross-examined after I speak?**

At the discretion of the chairperson, questions of clarification may be asked by the panel, the proponent or audience to ensure that your opinions are understood. This is not cross-examination in the legal sense. Such practice or questions intended to discredit or embarrass a speaker are discouraged by the chairperson.

## **Is evidence given under oath?**

No.

## **What if I cannot make it to a specific hearing session, but have something I want to tell the panel about the subject of that particular session?**

Contact the executive secretary. You can either submit his comments in writing before the session or make her statement at a convenient time during another session, usually at a "catch up" session. Since government experts, proponent's experts and technical experts provided by the panel are often only able to be present on certain days, there is some risk that your

statements will not be discussed in some detail. However, the panel will certainly consider your statements.

### **Can the government conduct an environmental assessment with another government, say with a province?**

In certain cases, such as where a project affects the jurisdiction of two governments or levels of government, the federal government may conduct the assessment jointly with that jurisdiction. It is common to have review panels appointed jointly by each government.

Currently, the government is developing out harmonization agreements with the provinces to facilitate such reviews.

### **What happens to a project after an independent assessment by a mediator or a panel?**

The mediator or panel must prepare an environmental assessment report which summarizes its rationale, conclusions, and recommendations, and includes a summary of comments received from the public. This report is submitted to the responsible authority and the Minister of the Environment who then makes it public. Once the report has been submitted, the work of the mediator/panel is completed.

The responsible authority must await the mediator's or panel's report and take it into consideration before making any decision with regard to the project.

### **What happens after an environmental assessment has been completed?**

Regardless of the type of environmental assessment, and no matter what the outcome, the responsible authority must give notice of its decision with regard to the project. If the responsible authority determines that it may take action that enables a project to proceed, it must first consider whether a follow-up program is appropriate. Under the Act, a follow-up program verifies the accuracy of the environmental assessment and/or determines the effectiveness of any mitigation measures that have been implemented.



## 4. PUBLIC REGISTRY

### What is the public registry ?

The public registry is a system to help you participate effectively in environmental assessments carried out under the *Canadian Environmental Assessment Act*. The system consists of three levels of information:

#### 1. Federal Environmental Assessment Index (FEAI)

The FEAI is a electronic, master index of all environmental assessments carried out under the Act. It contains the "tombstone" information, (the who, what, when, where, why) of federal environmental assessments, and provides contacts for further information on the assessments and documents. The FEAI points you to the next two levels of information.

#### 2. Departmental document listings

The document listing is a list of all available documents relating to each environmental assessment carried out under the Act. The listing is maintained by each responsible authority undertaking the environmental assessment, or by the Agency if a public review is being carried out. If you want information on a specific environmental assessment, you can search the FEAI, and call the responsible authority contact listed for the specific environmental assessment. The contact will be able to provide the document list (verbally, or by fax or mail) and then take the request for specific documents.

#### 3. Documents

Documents are available to the public on request, through the contact on the FEAI. Responsible authorities will retain the documents listed on the document lists and will make them available, upon request, to the public.

## **How would I go about finding information and documents relating to an environmental assessment carried out under the Act?**

### **Step One**

You can go to a library, local panel office, or the Agency headquarters and search the FEAI in either electronic or hardcopy form for the particular EA(s) you are looking for; or you can sit at your computer and log into the WEB on-line database or the Internet and search the FEAI. You can search the FEAI by geographic location, province, drainage basin, national park, nearest city, town or village, work description, responsible authority, keyword, EA type, or a combination of words to locate the particular EA(s) you are looking for.

### **Step Two**

Once you have located the EA(s) you are looking for you get in touch with the contact(s) listed with each EA and request the document listing. This listing can be given to you over the phone, by mail, by Fax, or in some cases by E-mail.

### **Step Three**

You determine which documents you are interested in and request these from the contact.

## **What kind of records can be found in the public registry?**

Records can include the following:

- a screening report or comprehensive study report;
- terms of reference of a mediator or panel;
- supporting documentation, such as background reports and studies used in the analysis;
- advice or information provided by expert federal departments and agencies;
- documents produced as part of the public information program of the environmental assessment;
- the environmental impact statement (EIS);
- public comments received;

- the final report of a mediator or panel;
- a description of the follow-up program and its results; and
- public notices of decisions.

Some records, such as Cabinet documents, trade secrets, and confidential financial information, are excluded from the registry.

### **Is there a fee for the records?**

Some departments may charge a fee to provide copies of requested reports and other materials.

### **Where can I get more information?**

Please call or write the

Public Registry Coordinator  
The Canadian Environmental Assessment Agency  
200 Sacré-Coeur Boulevard  
Hull, Quebec  
K1A 0H3

(819) 997-1000  
(819) 994-1469 (Fax)



## **5. THE PARTICIPANT FUNDING PROGRAM**

The Participant Funding Program was created to help concerned citizens and organizations participate in mediation and panel reviews.

### **What activities are funded ?**

Funding is available to help members of the public

- prepare for and participate in background scoping meetings that identify factors that a project's proponent must address in its **environmental impact statement (EIS)**;
- review the proponent's EIS;
- prepare for, and participate in, the mediation or the panel hearings.

### **Who is eligible?**

Funding is open to individuals and non-profit organizations such as voluntary groups and aboriginal groups. Applications reflecting both sides of an issue are considered equally. Priority is given to those who can demonstrate that the project has a direct effect on their way of life or means of earning a living.

In seeking funding, applicants should

- demonstrate their need for financial assistance, as program funds are limited;
- demonstrate any direct interest in the potential environmental effects of the project, such as a direct effect on their way of life or means of earning a living;
- prepare a clearly defined plan of activity consistent with the terms of reference for the mediation or review panel;
- consider the possibility of cooperative participation with other groups.

## **How is funding awarded?**

Each public review receives a specific allocation from the program. A funding administration committee, independent of both the panel or mediator and proponent, is established for the review. The committee reviews the applications and makes recommendations to the Agency. The president of the Agency reviews and approves the recommendations. The Minister of the Environment announces the allocation of funds.

## **Where can I get more information about the funding program?**

Please call or write the

Manager  
Participant Funding Program  
Canadian Environmental Assessment Agency  
200 Sacré-Coeur Boulevard  
Hull, Quebec  
K1A 0H3

(819) 997-1000

(819) 994-1469 (Fax)

## **GLOSSARY**

### **Action that enables the project to proceed**

The federal power, duty, or function that a federal authority exercises or performs in relation to the project, including acting as the proponent, or providing financial support, an interest in federal lands, or a federal permit or licence.

### **Adverse**

Whether or not environmental effects are adverse is measured by looking at factors such as any habitat loss that they create or their detrimental effects on human health.

### **Comprehensive Study List regulation**

This is a list created by regulation which describes projects and classes of projects that are likely to have significant adverse environmental effects and therefore require a more intensive assessment.

### **Cumulative effects**

Refers to the effect on the environment which results from the effects of a project when combined with those of other past, existing or imminent projects and activities. These may occur over a certain period of time or distance.

### **Environment**

Includes land, water and air, all organic and inorganic matter, and the ecosystems in which they interact.



## Environmental effect

Refers to

- any changes that the project may cause in the environment, including any effects of such changes on health and socio-economic conditions, on physical and cultural heritage, on the current use of lands and resources for traditional purposes by aboriginal persons, or on any structure, site or thing that is of historical, archaeological, paleontological, or architectural significance; as well as
- any changes to the project that may be caused by the environment , whether the changes occur within or outside Canada.

## Environmental impact statement (EIS)

An environmental impact statement is a document prepared by the proponent of a project outlining the effects of the project on the environment. The EIS is prepared at the request of and according to guidelines drafted by an environmental assessment panel.

## Exclusion List regulation

This regulation is a list which describes all undertakings in relation to a physical work for which an environmental assessment is not required because experience suggests they are not likely to cause significant adverse environmental effects. Examples include minor renovations and routine maintenance.

## Federal authority

A federal authority is defined as

- a federal Minister of the Crown;
- an agency or body of the federal government;
- any department or departmental corporation defined under schedule I or II of the *Financial Administration Act*; or

- any body prescribed in a regulation under the Act.

Not considered federal authorities under the Act are the following: the government of the Yukon or Northwest Territories; a council or band under the Indian Act; harbour commissions; and Crown corporations within the meaning of the *Financial Administration Act*.

Separate regulations will be developed setting out the environmental assessment procedures to be followed by Indian bands, harbour commissions and Crown corporations. The Act does not apply to the governments of the Yukon and Northwest Territories because these have the legislative power to create their own procedures.

## **Federal lands**

Refers to any lands owned or leased by the federal government, as well as those described in a land claims agreement and self-government agreement, land set aside for the use and benefit of Indian bands, and land in respect of which Indians have interests, as defined in the Act.

## **Follow-up program**

Verifies the accuracy of the environmental assessment of a project and determines the effectiveness of any measures taken to mitigate its adverse environmental effects.

## **Inclusion List regulation**

List set out in regulation which specifies physical activities not in relation to physical works (eg. ice-breaking in the Arctic) which are subject to environmental assessment because of their potential to cause significant adverse environmental effects.

## **Independent review**

An environmental assessment by means of a mediation or a panel appointed by the Minister of the Environment.

## **Interested party**

Any person or body having an interest in the outcome in the environmental assessment for a purpose that is neither frivolous or vexatious.

## **Law List regulation**

List created by regulation which describes all those federal statutory and regulatory project approvals which will trigger an environmental assessment. This includes federal permits, certificates, licences and authorizations.

## **Mitigation measures**

The elimination, reduction or control of the adverse environmental effects of a project, including restitution for any damage to the environment caused by such effects through replacement, restoration, compensation or any other means.

## **Proponent**

The person, body, federal authority or government that proposes the project.

## **Responsible authority**

The federal department, agency, or Minister whose actions or authority trigger environmental assessment of a particular project.

## **Scoping meeting**

A meeting held by a panel to identify and assign priority to environmental and related social issues that might be examined in an assessment.

## **Self-directed environmental assessment**

For the purpose of this guide only, an environmental assessment by means of a screening or comprehensive study.



## **Significant adverse environmental effects**

The significance of adverse environmental effects is measured by their magnitude, geographic extent and how permanent they will be.

## **Sustainable development**

Development which meets the needs of the present generation without compromising the ability of future generations to meet their own needs.

## **Terms of reference**

Present the nature and scope of review to be undertaken by a panel and are determined by the Minister of the Environment in consultation with the responsible authority. Terms of reference usually include a statement of the matters to be dealt with in the review, an outline of the procedures to be followed and an anticipated timeframe.

## **Transboundary effects**

Adverse environmental effects which occur across provincial or international boundaries or boundaries between federal and non-federal lands.

## **Trigger**

An action by a federal authority that triggers or initiates the need for an environmental assessment; that is one or more of the following duties, powers, or functions in relation to a project:

- proposes the project;
- grants money or other financial assistance to a project;
- sells, leases or otherwise transfers control or administration of land to enable a project to be carried out;
- exercises a regulatory duty in relation to a project, such as issuing a permit or a licence, that is included in the Law List regulation.









- The **Minister of the Environment** plays a pivotal role in implementing the federal environmental assessment process. The Minister
  - at any stage of a screening or following a comprehensive study may call, under certain circumstances and in consultation with a federal authority, a public review by a mediator, a panel or a combination of the two;
  - appoints the mediator or panel members and, in consultation with the federal authority responsible for the project, establishes its terms of reference;
  - may allow another federal process to be substituted for a panel review under the act to promote efficiency, avoid duplication and save time;
  - ensures that projects that pose a risk of significant adverse environmental effects on federal lands, or across provincial boundaries or international borders receive an environmental assessment.
- To prevent possible overlaps or confusion with the environmental assessment processes of other jurisdictions, such as provincial governments, the federal Minister of the Environment is able to negotiate harmonized environmental assessment procedures that provide for **joint panel reviews** with those jurisdictions.
- The **scope of assessment** for projects undergoing a comprehensive study, a mediation or panel review also includes a consideration of alternative means of carrying out the project, as well as the project's purpose and effects on the sustainability of renewable resources.
- Responsible authorities must address the need for a **follow-up program** to verify the accuracy of the environmental assessment and/or determine the effectiveness of mitigation measures.
- A **public registry** is established to ensure public access to records relating to the environmental assessment of a project.

- A new independent agency, the **Canadian Environmental Assessment Agency** (CEAA) is established to administer the federal environmental assessment process and ensure that opportunities are provided for public participation in the environmental assessment process.
- The Act requires a number of **regulations** to put its procedures into effect and to clarify its requirements and scope in certain circumstances. To meet specific needs and circumstances, more than a dozen such regulations are being developed in consultation with other governments, the private sector, environmental and Aboriginal groups, and the general public.

There are currently **four regulations**:

- Comprehensive Study List;
- Law List;
- Exclusion List;
- Inclusion List.

(For more information on the regulations, please see Fact Sheet IV, *Putting the Act into Practice - The Canadian Environmental Assessment Act Regulations*.)

## **Fact Sheet Series**

There are five fact sheets in this series:

- I. Highlights of the *Canadian Environmental Assessment Act*
- II. An Overview of the Canadian Environmental Assessment Process
- III. The Canadian Environmental Assessment Agency
- IV. Putting the Act into Practice - The *Canadian Environmental Assessment Act* Regulations
- V. Public Participation under the *Canadian Environmental Assessment Act*





## FACT SHEET II: An Overview of the Canadian Environmental Assessment Process

The *Canadian Environmental Assessment Act* (Act) clearly establishes, for the first time in a federal statute, a process for conducting environmental assessments of projects involving the federal government. The Act is administered by the Canadian Environmental Assessment Agency (CEAA).

### Guiding Principles

The process is founded on several guiding principles:

- Environmental assessment is a tool to help decision-makers promote sustainable development -- the maintenance of a healthy environment and sound economy.
- The process must be applied as early as possible in a project's planning stage, and before irrevocable decisions are made, so that environmental factors can be taken into account in decision-making in the same way that economic and social factors have traditionally been considered.
- Public participation and accountability to the public are important elements of an open and balanced environmental assessment process.
- The self-directed environmental assessment of projects by the federal departments and agencies responsible for them is a cornerstone of an effective and efficient environmental assessment process.

### Applying the Act

An environmental assessment is required if a **federal authority** exercises one or more of the following duties, powers, or functions in relation to a **project**:

- proposes the project;
- contributes any other form of financial assistance to the project;

- sells, leases or otherwise transfers control or administration of land to enable the project to be carried out; or
- exercises a regulatory duty in relation to a project, such as issuing a permit or licence, that is included in the Act's Law List regulation.

#### **A federal authority is**

- a federal Minister of the Crown;
- an agency or other body of the federal government that is ultimately accountable to Parliament through a federal Minister of the Crown;
- any federal department or departmental corporation set out in Schedule I or II to the *Financial Administration Act*;
- any other body prescribed in the regulations under the Act.

A federal authority is responsible for ensuring the assessment is carried out in compliance with the Act.

#### **A project is defined as either**

- an undertaking in relation to a physical work, such as any proposed construction, operation, modification, decommissioning, or abandonment, e.g. the construction (undertaking) of a bridge (physical work); or
- any physical activity not relating to a physical work that is listed in the Inclusion List regulation under the Act (such as the cutting and removal of timber from the forests of a National Park).

#### **Types of environmental assessments**

Under the Act, all projects receive an appropriate degree of environmental assessment. The degree depends largely on the scale and complexity of the

likely effects of the project. Consequently, there are **four types of environmental assessments**:

- **screening,**
- **comprehensive study,**
- **mediation, and**
- **panel review.**

Screening and comprehensive study are called **self-directed assessments** because they are conducted by the responsible authority for the project. Ninety nine per cent of federal environmental assessments are conducted in this way. Mediation and review by a panel are called **independent assessments** because they are conducted by an independent mediator or public review panel appointed by the Minister of the Environment. The Minister appoints a mediator or a panel once a responsible authority has referred a project for independent assessment.

**Screening**, conducted by the project's responsible authority, is the most flexible type of assessment, accommodating both simple, routine projects as well as larger projects. It is a systematic approach to documenting the environmental effects of a proposed project and determining the need to eliminate or minimize (mitigate) these effects; to modify the project plan; or to recommend further assessment through mediation or a panel review.

Public involvement in a screening is at the discretion of the responsible authority (unless required by regulation under the Act) and depends on such factors as the nature of the project, its environmental setting, and public concerns.

**Class Screening** The screening of some routine projects, such as dredging, culvert installations and highway maintenance, may be streamlined through the use of a class screening report. Designated by the agency after taking into account public comments, a class screening report presents the accumulated knowledge of the environmental effects of a given type of project, and identifies the known measures to reduce or eliminate the likely adverse environmental effects.



**Comprehensive Study** Some projects undergo a more intensive and detailed assessment of their environmental effects. Such projects, described in the Comprehensive Study List regulation under the Act, are large-scale, environmentally sensitive projects that have the potential to create significant adverse environmental effects and to generate public concerns. Examples include large oil and natural gas developments, projects in national parks, nuclear power developments, major electrical-generation projects, and large industrial plants. In a comprehensive study, the responsible authority considers a wider range of factors than a screening, and submits the comprehensive study report to the Minister of the Environment for review by the Agency and the public.

**Mediation** is a voluntary process of negotiation in which an independent and impartial mediator appointed by the Minister of the Environment helps the interested parties resolve their issues and reach a consensus on such questions as the likely environmental effects of a project and the most effective mitigation measures. It can address all or part of the project's environmental assessment, and can be used in combination with a panel review.

Where mediation is not appropriate or is not successful, the environmental assessment is conducted by an independent **public review panel** appointed by the Minister of the Environment. A panel review has the unique capacity to inform and involve a large number of concerned groups and members of the public, through, for example, opportunities to become involved in determining the scope of the environmental assessment and to participate in public hearings on the project. Public hearings are structured, but relatively informal and non-adversarial. The panel makes its recommendations to the government at the end of the public review process.

### **Follow-up programs**

Based on the findings of the environmental assessment, and on public comments, the responsible authority must decide whether it may undertake action in relation to the project -- that is, proceed if it is the proponent, contribute funding, dispose of interest in land or issue a permit, licence or other authorization.

The Act provides for a **follow-up program** to verify the accuracy of the environmental assessment, and/or to determine the effectiveness of any mitigation measures that have been implemented.

## **Public Participation**

**Public involvement** is a key objective of the Act. All federal departments and agencies must keep this in mind when conducting or managing environmental assessments. The public is an important source of local information and traditional ecological knowledge about the project's physical site and likely environmental effects. Through public participation activities, project proponents can obtain this information, better understand and respond to public concerns and inform people about decisions. **Public concerns** can also trigger the need for a review by a mediator or panel.

The role of the public in the federal environmental assessment process is promoted through

- opportunities for public involvement in class screenings, comprehensive studies, mediation and panel reviews;
- the establishment of a **public registry** for each project undergoing any type of environmental assessment. Members of the public wishing to take part in the process can obtain copies and review most documents relating to an assessment; and
- a **participant funding program** designed to provide limited funding to interested individuals and groups both for and against a project to participate effectively at key stages of mediations and panel reviews.

## **Working with Other Governments**

Many projects require authorization from **both** the federal government and a provincial or territorial government. Without close cooperation among these governments, a project might need to undergo separate environmental assessments -- resulting in unnecessary duplication, confusion, and excessive costs for all parties.

Recognizing the potential for such duplication and confusion, the Act allows the Minister to enter into agreements with provinces and territorial governments relating to the environmental assessment of projects where both governments are being asked to provide a licence, permit, certificate, or other authorization. These **bilateral agreements**, known as harmonization agreements, provide guidelines for the roles and responsibilities of each government in the environmental assessment of such projects. The agreements cover cooperation in such areas as joint panels, mediation, screening, comprehensive studies, notification, cost-sharing and time frames.

At this time, an agreement with Alberta has been signed; another with Manitoba has been approved by both parties; and five others are in the negotiation stage.

### **Fact Sheet Series**

There are five fact sheets in this series:

- I. Highlights of the *Canadian Environmental Assessment Act*
- II. An Overview of the Canadian Environmental Assessment Process
- III. The Canadian Environmental Assessment Agency
- IV. Putting the Act into Practice - The *Canadian Environmental Assessment Act* Regulations
- V. Public Participation under the *Canadian Environmental Assessment Act*





## FACT SHEET III: The Canadian Environmental Assessment Agency

The Minister of the Environment initiated in 1987 through nation-wide consultations a major reform of the federal environmental assessment process. The reform reached an important milestone in June 1992 with the passage through Parliament of the *Canadian Environmental Assessment Act* (Act). The Act will be implemented in January 1995.

The Canadian Environmental Assessment Agency (CEAA) is charged with putting the Act into practice. The Agency is a national organization dedicated solely to administering and promoting environmental assessment policies and practices of the federal government. It reports directly to the Minister of the Environment and operates independently of any other federal department or agency. It replaces the Federal Environmental Assessment Review Office (FEARO).

The CEAA has four key roles:

1. Administering the environmental assessment process;
2. Providing advice to the Minister of the Environment on the Minister's responsibilities under the Act;
3. Providing opportunities for public participation in the federal environmental assessment process; and
4. Promoting sound environmental assessment practices.

### 1. Administering the Federal Environmental Assessment Process

The CEAA serves as a source of information and advice on the federal environmental assessment process by

- providing training, information, guidance, and advice to federal departments and agencies on their obligations under the Act and the policy assessment guidelines;

- providing advice to project proponents and consultants conducting environmental assessments, to ensure compliance with the Act;
- responding to requests from the public for both general information on environmental assessment procedures and specific information on the assessment of particular projects;
- reviewing proposed class screening reports and comprehensive study reports to ensure compliance with the Act;
- providing administrative support for mediators and review panels;
- providing limited funding for the public to participate in mediation and panel reviews;
- working with provincial governments and other jurisdictions to ensure that environmental assessments of projects are harmonized; and
- preparing an annual report to Parliament on how the Act is being implemented across government departments and agencies.

## **2. Providing Advice to the Minister of the Environment**

The Minister of the Environment has a critical review and decision-making role in the federal environmental assessment process. The CEAA provides legal, procedural, and policy advice to the Minister on meeting the Minister's responsibilities under the Act. For example, the Agency provides advice when the Minister

- reviews a comprehensive study report to ensure compliance with the Act;
- determines, after reviewing a comprehensive study and public comments, whether a project can be referred back to the responsible authority for action, or whether further review is needed through mediation or a panel review;
- decides whether mediation is an appropriate option, or whether a project should be referred to a panel review;

- establishes terms of reference for a mediator or panel;
- appoints a mediator or panel members; or
- receives a report from a mediator or panel and makes it available to the public.

### **3. Providing Opportunities for Public Involvement**

Public involvement is a key objective of the Act. The CEAA encourages public involvement by

- ensuring that the public has an opportunity to review and comment on proposed class screening reports and comprehensive study reports before any decisions are taken;
- providing guidance to federal departments and project proponents on effectively involving the public;
- maintaining a public registry for all projects undergoing a review by a mediator or a panel;
- providing guidance to federal departments in establishing and maintaining a public registry for projects, so that the public can conveniently access environmental assessment reports and supporting documents;
- providing funding to interested groups so that they can participate in mediation sessions and panel reviews;
- supporting panel hearings.



#### 4. Promoting Sound Environmental Assessment Practices

Finally, the CEAA has a broader role in promoting and improving environmental assessment practices in Canada and abroad. Through its work with federal departments and agencies, project proponents, provincial, municipal, and territorial governments, interested public groups, and international organizations, the Agency

- promotes the principles of sustainable development and public involvement in environmental assessment;
- works to ensure a consistent application of environmental assessment in all regions of the country;
- supports research to improve environmental assessment methods;
- promotes international cooperation on environmental assessment by sharing information with, and offering Canadian expertise to, other countries.

Through public information booklets, fact sheets, bulletins, and an annual report to Parliament tabled by the Minister, the CEAA also promotes greater public awareness of the important role environmental assessment plays in Canada.

#### Fact Sheet Series

There are five fact sheets in this series:

- I. Highlights of the *Canadian Environmental Assessment Act*
- II. An Overview of the Canadian Environmental Assessment Process
- III. The Canadian Environmental Assessment Agency
- IV. Putting the Act into Practice - The *Canadian Environmental Assessment Act* Regulations
- V. Public Participation under the *Canadian Environmental Assessment Act*







Third Session, Thirty-fourth Parliament,  
40-41 Elizabeth II, 1991-92

Troisième session, trente-quatrième législature,  
40-41 Elizabeth II, 1991-92

## **STATUTES OF CANADA 1992**

## **LOIS DU CANADA (1992)**

### **CHAPTER 37**

### **CHAPITRE 37**

An Act to establish a federal environmental assessment  
process

Loi de mise en œuvre du processus fédéral d'évaluation  
environnementale

---

**BILL C-13**

**ASSENTED TO 23rd JUNE, 1992**

---

---

**PROJET DE LOI C-13**

**SANCTIONNÉ LE 23 JUIN 1992**

---



## 40-41 ELIZABETH II

### CHAPTER 37

An Act to establish a federal environmental assessment process

*[Assented to 23rd June, 1992]*

Preamble

WHEREAS the Government of Canada seeks to achieve sustainable development by conserving and enhancing environmental quality and by encouraging and promoting economic development that conserves and enhances environmental quality;

WHEREAS environmental assessment provides an effective means of integrating environmental factors into planning and decision-making processes in a manner that promotes sustainable development;

WHEREAS the Government of Canada is committed to exercising leadership within Canada and internationally in anticipating and preventing the degradation of environmental quality and at the same time ensuring that economic development is compatible with the high value Canadians place on environmental quality;

AND WHEREAS the Government of Canada is committed to facilitating public participation in the environmental assessment of projects to be carried out by or with the approval or assistance of the Government of Canada and providing access to the information on which those environmental assessments are based;

NOW, THEREFORE, Her Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:

## 40-41 ELIZABETH II

### CHAPITRE 37

Loi de mise en œuvre du processus fédéral d'évaluation environnementale

*[Sanctionnée le 23 juin 1992]*

Préambule

Attendu :

que le gouvernement fédéral vise au développement durable par des actions de conservation et d'amélioration de la qualité de l'environnement ainsi que de promotion d'une croissance économique de nature à contribuer à la réalisation de ces fins;

que l'évaluation environnementale constitue un outil efficace pour la prise en compte des facteurs environnementaux dans les processus de planification et de décision, de façon à promouvoir un développement durable;

que le gouvernement fédéral s'engage à jouer un rôle moteur tant au plan national qu'au plan international dans la prévention de la dégradation de l'environnement tout en veillant à ce que les activités de développement économique soient compatibles avec la grande valeur qu'accordent les Canadiens à l'environnement;

que le gouvernement fédéral s'engage à favoriser la participation de la population à l'évaluation environnementale des projets à entreprendre par lui ou approuvés ou aidés par lui, ainsi qu'à fournir l'accès à l'information sur laquelle se fonde cette évaluation,

Sa Majesté, sur l'avis et avec le consentement du Sénat et de la Chambre des communes du Canada, édicte :



## SHORT TITLE

## Short title

1. This Act may be cited as the *Canadian Environmental Assessment Act*.

## INTERPRETATION

## Definitions

“Agency”  
« Agence »

2. (1) In this Act,  
“Agency” means the Canadian Environmental Assessment Agency established by section 61;

“assessment by a review panel”  
« examen par une commission »

“assessment by a review panel” means an environmental assessment that is conducted by a review panel established pursuant to section 33 and that includes a consideration of the factors required to be considered under subsections 16(1) and (2);

“comprehensive study”  
« étude approfondie »

“comprehensive study” means an environmental assessment that is conducted pursuant to section 21 and that includes a consideration of the factors required to be considered under subsections 16(1) and (2);

“comprehensive study list”  
« liste d'étude approfondie »

“comprehensive study list” means a list of all projects or classes of projects that have been prescribed pursuant to regulations made under paragraph 59(d);

“environment”  
« environnement »

“environment” means the components of the Earth, and includes

(a) land, water and air, including all layers of the atmosphere,

(b) all organic and inorganic matter and living organisms, and

(c) the interacting natural systems that include components referred to in paragraphs (a) and (b);

“environmental assessment”  
« évaluation environnementale »

“environmental assessment” means, in respect of a project, an assessment of the environmental effects of the project that is conducted in accordance with this Act and the regulations;

“environmental effect”  
« effets environnementaux »

“environmental effect” means, in respect of a project,

(a) any change that the project may cause in the environment, including any effect of any such change on health and socio-economic conditions, on physical and cultural heritage, on the current use of lands and resources for traditional purposes by aboriginal persons, or on

## TITRE ABRÉGÉ

## Titre abrégé

1. *Loi canadienne sur l'évaluation environnementale*.

## DÉFINITIONS

## Définitions

2. (1) Les définitions qui suivent s'appliquent à la présente loi.

« Agence » L'Agence canadienne d'évaluation environnementale constituée par l'article 61.

« Agence »  
“Agency”

« autorité fédérale »

« autorité fédérale »  
“federal authority”

a) Ministre fédéral;

b) agence fédérale ou organisme constitué sous le régime d'une loi fédérale et tenu de rendre compte au Parlement de ses activités par l'intermédiaire d'un ministre fédéral;

c) ministère ou établissement public mentionnés aux annexes I et II de la *Loi sur la gestion des finances publiques*;

d) tout autre organisme désigné par les règlements d'application de l'alinéa 59e).

Sont exclus le commissaire en conseil du territoire du Yukon et des Territoires du Nord-Ouest et tous les organismes de ces territoires, tout conseil de bande au sens donné à « conseil de la bande » dans la *Loi sur les Indiens*, les commissions portuaires constituées par la *Loi sur les commissions portuaires*, les commissaires nommés en vertu de la *Loi des commissaires du havre de Hamilton* et de la *Loi de 1911 concernant les commissaires du havre de Toronto*, et les sociétés d'État au sens de la *Loi sur la gestion des finances publiques*.

« autorité responsable » L'autorité fédérale qui, en conformité avec le paragraphe 11(1), est tenue de veiller à ce qu'il soit procédé à l'évaluation environnementale d'un projet.

« autorité responsable »  
“responsible authority”

« développement durable » Développement qui permet de répondre aux besoins du présent sans compromettre la possibilité pour les générations futures de satisfaire les leurs.

« développement durable »  
“sustainable development”

« document » Tous éléments d'information, quels que soient leur forme et leur support,

« document »  
“record”

any structure, site or thing that is of historical, archaeological, paleontological or architectural significance, and

(b) any change to the project that may be caused by the environment,

whether any such change occurs within or outside Canada;

“exclusion list”  
« liste  
d'exclusion »

“exclusion list” means a list of all projects or classes of projects that have been prescribed pursuant to regulations made under paragraph 59(c);

“federal  
authority”  
« autorité  
fédérale »

“federal authority” means

(a) a Minister of the Crown in right of Canada,

(b) an agency of the Government of Canada or other body established by or pursuant to an Act of Parliament that is ultimately accountable through a Minister of the Crown in right of Canada to Parliament for the conduct of its affairs,

(c) any department or departmental corporation set out in Schedule I or II to the *Financial Administration Act*, and

(d) any other body that is prescribed pursuant to regulations made under paragraph 59(e),

but does not include the Commissioner in Council or an agency or body of the Yukon Territory or the Northwest Territories, a council of the band within the meaning of the *Indian Act*, The Hamilton Harbour Commissioners constituted pursuant to *The Hamilton Harbour Commissioners' Act*, The Toronto Harbour Commissioners constituted pursuant to *The Toronto Harbour Commissioners' Act, 1911*, a harbour Commission established pursuant to the *Harbour Commissions Act* or a Crown corporation within the meaning of the *Financial Administration Act*;

“federal lands”  
« territoire  
domanial »

“federal lands” means

(a) lands that belong to Her Majesty in right of Canada, or that Her Majesty in right of Canada has the power to dispose of, and all waters on and airspace above those lands, other than lands the administration and control of which have been transferred by the Governor

notamment correspondance, note, livre, plan, carte, dessin, diagramme, illustration ou graphique, photographie, film, micro-formule, enregistrement sonore, magnéto-copique ou informatisé, ou toute reproduction de ces éléments d'information.

« effets environnementaux » Tant les changements que la réalisation d'un projet risque de causer à l'environnement que les changements susceptibles d'être apportés au projet du fait de l'environnement, que ce soit au Canada ou à l'étranger; sont comprises parmi les changements à l'environnement les répercussions de ceux-ci soit en matière sanitaire et socio-économique, soit sur l'usage courant de terres et de ressources à des fins traditionnelles par les autochtones, soit sur une construction, un emplacement ou une chose d'importance en matière historique, archéologique, paléontologique ou architecturale.

« effets  
environnemen-  
taux »  
“environmental  
effect”

« environnement » Ensemble des conditions et des éléments naturels de la Terre, notamment :

« environne-  
ment »  
“environment”

a) le sol, l'eau et l'air, y compris toutes les couches de l'atmosphère;

b) toutes les matières organiques et inorganiques ainsi que les êtres vivants;

c) les systèmes naturels en interaction qui comprennent les éléments visés aux alinéas a) et b).

« étude approfondie » Évaluation environnementale d'un projet effectuée aux termes de l'article 21 et qui comprend la prise en compte des éléments énumérés aux paragraphes 16(1) et (2).

« étude  
approfondie »  
“comprehensive  
study”

« évaluation environnementale » Évaluation des effets environnementaux d'un projet effectuée conformément à la présente loi et aux règlements.

« évaluation  
environnemen-  
tale »  
“environmental  
assessment”

« examen par une commission » Évaluation environnementale effectuée par une commission d'évaluation environnementale constituée aux termes de l'article 33 et qui comprend la prise en compte des éléments énumérés aux paragraphes 16(1) et (2).

« examen par  
une commis-  
sion »  
“assessment by  
a review panel”

« examen préalable » Évaluation environnementale qui, à la fois :

« examen  
préalable »  
“screening”



in Council to the Commissioner of the Yukon Territory or the Northwest Territories,

(b) the following lands and areas, namely,

(i) the internal waters of Canada within the meaning of the *Territorial Sea and Fishing Zones Act*, including the seabed and subsoil below and the airspace above those waters,

(ii) the territorial sea of Canada as determined in accordance with the *Territorial Sea and Fishing Zones Act*, including the seabed and subsoil below and the airspace above that sea,

(iii) any fishing zone of Canada prescribed under the *Territorial Sea and Fishing Zones Act*,

(iv) any exclusive economic zone that may be created by the Government of Canada, and

(v) the continental shelf, consisting of the seabed and subsoil of the submarine areas that extend beyond the territorial sea throughout the natural prolongation of the land territory of Canada to the outer edge of the continental margin or to a distance of two hundred nautical miles from the inner limits of the territorial sea, whichever is the greater, or that extend to such other limits as may be prescribed pursuant to an Act of Parliament, and

(c) reserves, surrendered lands and any other lands that are set apart for the use and benefit of a band and are subject to the *Indian Act*, and all waters on and airspace above those reserves or lands;

“follow-up program”  
« programme de suivi »

“follow-up program” means a program for

(a) verifying the accuracy of the environmental assessment of a project, and

(b) determining the effectiveness of any measures taken to mitigate the adverse environmental effects of the project;

“interested party”  
« partie intéressée »

“interested party” means, in respect of an environmental assessment, any person or body having an interest in the outcome of the environmental assessment for a purpose that is neither frivolous nor vexatious;

a) est effectuée de la façon prévue à l'article 18;

b) prend en compte les éléments énumérés au paragraphe 16(1).

« liste d'étude approfondie » Liste des projets ou catégories de projets désignés par règlement aux termes de l'alinéa 59d).

« liste d'étude approfondie »  
“comprehensive study list”

« liste d'exclusion » Liste des projets ou catégories de projets établie par règlement aux termes de l'alinéa 59c).

« liste d'exclusion »  
“exclusion list”

« médiation » Évaluation environnementale effectuée sous la direction d'un médiateur nommé aux termes de l'article 30 et qui comprend la prise en compte des éléments énumérés aux paragraphes 16(1) et (2).

« médiation »  
“mediation”

« mesures d'atténuation » Maîtrise efficace, réduction importante ou élimination des effets environnementaux négatifs d'un projet, éventuellement assortie d'actions de rétablissement notamment par remplacement ou restauration; y est assimilée l'indemnisation des dommages causés.

« mesures d'atténuation »  
“mitigation”

« ministre » Le ministre de l'Environnement.

« ministre »  
“Minister”

« partie intéressée » Toute personne ou tout organisme pour qui le résultat de l'évaluation environnementale revêt un intérêt qui ne soit ni frivole ni vexatoire.

« partie intéressée »  
“interested party”

« programme de suivi » Programme visant à permettre :

« programme de suivi »  
“follow-up program”

a) de vérifier la justesse de l'évaluation environnementale d'un projet;

b) de juger de l'efficacité des mesures d'atténuation des effets environnementaux négatifs.

« projet » Réalisation — y compris l'entretien, la modification, la désaffectation ou la fermeture — d'un ouvrage ou proposition d'exercice d'une activité concrète, non liée à un ouvrage, désignée par règlement ou faisant partie d'une catégorie d'activités concrètes désignée par règlement aux termes de l'alinéa 59b).

« projet »  
“project”

« promoteur » Autorité fédérale ou gouvernement, personne physique ou morale ou tout organisme qui propose un projet.

« promoteur »  
“proponent”

« rapport d'examen préalable » Rapport des résultats d'un examen préalable.

« rapport d'examen préalable »  
“screening report”



“mediation”  
« médiation »

“mediation” means an environmental assessment that is conducted with the assistance of a mediator appointed pursuant to section 30 and that includes a consideration of the factors required to be considered under subsections 16(1) and (2);

“Minister”  
« ministre »

“Minister” means the Minister of the Environment;

“mitigation”  
« mesures  
d’atténuation »

“mitigation” means, in respect of a project, the elimination, reduction or control of the adverse environmental effects of the project, and includes restitution for any damage to the environment caused by such effects through replacement, restoration, compensation or any other means;

“prescribed”  
Version  
anglaise  
seulement

“prescribed” means prescribed by the regulations;

“project”  
« projet »

“project” means

(a) in relation to a physical work, any proposed construction, operation, modification, decommissioning, abandonment or other undertaking in relation to that physical work, or

(b) any proposed physical activity not relating to a physical work that is prescribed or is within a class of physical activities that is prescribed pursuant to regulations made under paragraph 59(b);

“proponent”  
« promoteur »

“proponent”, in respect of a project, means the person, body, federal authority or government that proposes the project;

“record”  
« document »

“record” includes any correspondence, memorandum, book, plan, map, drawing, diagram, pictorial or graphic work, photograph, film, microform, sound recording, videotape, machine readable record, and any other documentary material, regardless of physical form or characteristics, and any copy thereof;

“responsible  
authority”  
« autorité  
responsable »

“responsible authority”, in relation to a project, means a federal authority that is required pursuant to subsection 11(1) to ensure that an environmental assessment of the project is conducted;

“screening”  
« examen  
préalable »

“screening” means an environmental assessment that is conducted pursuant to section 18 and that includes a consider-

« territoire domanial »

« territoire  
domanial »  
“federal lands”

a) Les terres qui appartiennent à Sa Majesté du chef du Canada ou qu’elle a le pouvoir d’aliéner, ainsi que leurs eaux et leur espace aérien, à l’exception des terres sur lesquelles le commissaire du Yukon ou celui des Territoires du Nord-Ouest a pleine autorité par décision du gouverneur en conseil;

b) les terres et zones suivantes :

(i) les eaux intérieures du Canada au sens de la *Loi sur la mer territoriale et la zone de pêche*, ainsi que leur fond, leur sous-sol et leur espace aérien,

(ii) la mer territoriale du Canada délimitée conformément à la *Loi sur la mer territoriale et la zone de pêche*, ainsi que le fond de la mer, son sous-sol et son espace aérien,

(iii) toute zone de pêche délimitée par règlement pris sous le régime de la *Loi sur la mer territoriale et la zone de pêche*,

(iv) toute zone économique exclusive créée par le gouvernement fédéral,

(v) le plateau continental, c’est-à-dire le fond de la mer et le sous-sol des zones sous-marines qui s’étendent au-delà de la mer territoriale sur tout le prolongement naturel du territoire terrestre du Canada soit jusqu’au rebord externe de la marge continentale, soit jusqu’à deux cents milles marins des limites intérieures de la mer territoriale là où ce rebord se trouve à une distance inférieure, soit jusqu’aux limites fixées au titre d’une loi fédérale;

c) les réserves, terres cédées ou autres terres qui ont été mises de côté à l’usage et au profit d’une bande et assujetties à la *Loi sur les Indiens*, ainsi que leurs eaux et leur espace aérien.

ation of the factors set out in subsection 16(1);

"screening report"  
« rapport d'examen préalable »

"screening report" means a report that summarizes the results of a screening;

"sustainable development"  
« développement durable »

"sustainable development" means development that meets the needs of the present, without compromising the ability of future generations to meet their own needs.

Control

(2) For the purposes of this Act, a corporation is controlled by another corporation if

(a) securities of the corporation to which are attached more than fifty per cent of the votes that may be cast to elect directors of the corporation are held, other than by way of security only, by or for the benefit of that other corporation; and

(b) the votes attached to those securities are sufficient, if exercised, to elect a majority of the directors of the corporation.

(2) Pour l'application de la présente loi, a le contrôle d'une personne morale la personne morale :

Contrôle

a) d'une part, qui détient — ou en est bénéficiaire —, autrement qu'à titre de garantie seulement, des valeurs mobilières conférant plus de cinquante pour cent du maximum possible des voix à l'élection des administrateurs de la personne morale;

b) d'autre part, dont les valeurs mobilières confèrent un droit de vote dont l'exercice permet d'élire la majorité des administrateurs de la personne morale.

#### HER MAJESTY

#### SA MAJESTÉ

Binding on Her Majesty

3. This Act is binding on Her Majesty in right of Canada or a province.

3. La présente loi lie Sa Majesté du chef du Canada ou d'une province.

Sa Majesté

#### PURPOSES

#### OBJET

Purposes

4. The purposes of this Act are

(a) to ensure that the environmental effects of projects receive careful consideration before responsible authorities take actions in connection with them;

(b) to encourage responsible authorities to take actions that promote sustainable development and thereby achieve or maintain a healthy environment and a healthy economy;

(c) to ensure that projects that are to be carried out in Canada or on federal lands do not cause significant adverse environmental effects outside the jurisdictions in which the projects are carried out; and

(d) to ensure that there be an opportunity for public participation in the environmental assessment process.

4. La présente loi a pour objet :

Objet

a) de permettre aux autorités responsables de décider de tout projet susceptible d'avoir des effets environnementaux en se fondant sur un jugement éclairé quant à ces effets;

b) d'inciter ces autorités à favoriser un développement durable propice à la salubrité de l'environnement et à la santé de l'économie;

c) de faire en sorte que les éventuels effets environnementaux négatifs importants des projets devant être réalisés dans les limites du Canada ou du territoire domanial ne débordent pas ces limites;

d) de veiller à ce que le public ait la possibilité de participer au processus d'évaluation environnementale.



ENVIRONMENTAL ASSESSMENT OF  
PROJECTS*Projects to be Assessed*Projects  
requiring  
environmental  
assessment

5. (1) An environmental assessment of a project is required before a federal authority exercises one of the following powers or performs one of the following duties or functions in respect of a project, namely, where a federal authority

(a) is the proponent of the project and does any act or thing that commits the federal authority to carrying out the project in whole or in part;

(b) makes or authorizes payments or provides a guarantee for a loan or any other form of financial assistance to the proponent for the purpose of enabling the project to be carried out in whole or in part, except where the financial assistance is in the form of any reduction, avoidance, deferral, removal, refund, remission or other form of relief from the payment of any tax, duty or impost imposed under any Act of Parliament, unless that financial assistance is provided for the purpose of enabling an individual project specifically named in the Act, regulation or order that provides the relief to be carried out;

(c) has the administration of federal lands and sells, leases or otherwise disposes of those lands or any interests in those lands, or transfers the administration and control of those lands or interests to Her Majesty in right of a province, for the purpose of enabling the project to be carried out in whole or in part; or

(d) under a provision prescribed pursuant to paragraph 59(f), issues a permit or licence, grants an approval or takes any other action for the purpose of enabling the project to be carried out in whole or in part.

(2) Notwithstanding any other provision of this Act,

(a) an environmental assessment of a project is required before the Governor in Council, under a provision prescribed pursuant to regulations made under paragraph 59(g), issues a permit or licence, grants an approval or takes any other

Projects  
requiring  
approval of  
Governor in  
CouncilÉVALUATION ENVIRONNEMENTALE DES  
PROJETS*Projets visés*

Projets visés

5. (1) L'évaluation environnementale d'un projet est effectuée avant l'exercice d'une des attributions suivantes :

a) une autorité fédérale en est le promoteur et le met en œuvre en tout ou en partie;

b) une autorité fédérale accorde à un promoteur en vue de l'aider à mettre en œuvre le projet en tout ou en partie un financement, une garantie d'emprunt ou toute autre aide financière, sauf si l'aide financière est accordée sous forme d'allègement — notamment réduction, évitement, report, remboursement, annulation ou remise — d'une taxe ou d'un impôt qui est prévu sous le régime d'une loi fédérale, à moins que cette aide soit accordée en vue de permettre la mise en œuvre d'un projet particulier spécifié nommément dans la loi, le règlement ou le décret prévoyant l'allègement;

c) une autorité fédérale administre le territoire domanial et en autorise la cession, notamment par vente ou cession à bail, ou celle de tout droit foncier relatif à celui-ci ou en transfère à Sa Majesté du chef d'une province l'administration et le contrôle, en vue de la mise en œuvre du projet en tout ou en partie;

d) une autorité fédérale, aux termes d'une disposition prévue par règlement pris en vertu de l'alinéa 59f), délivre un permis ou une licence, donne toute autorisation ou prend toute mesure en vue de permettre la mise en œuvre du projet en tout ou en partie.

(2) Par dérogation à toute autre disposition de la présente loi :

a) l'évaluation environnementale d'un projet est obligatoire, avant que le gouverneur en conseil, en vertu d'une disposition désignée par règlement aux termes de l'alinéa 59g), prenne une mesure, notamment

Projets  
nécessitant  
l'approbation  
du gouverneur  
en conseil



action for the purpose of enabling the project to be carried out in whole or in part; and

(b) the federal authority that, directly or through a Minister of the Crown in right of Canada, recommends that the Governor in Council take an action referred to in paragraph (a) in relation to that project

(i) shall ensure that an environmental assessment of the project is conducted as early as is practicable in the planning stages of the project and before irrevocable decisions are made,

(ii) is, for the purposes of this Act and the regulations, except subsection 11(2) and sections 20 and 37, the responsible authority in relation to the project,

(iii) shall consider the applicable reports and comments referred to in sections 20 and 37, and

(iv) where applicable, shall perform the duties of the responsible authority in relation to the project under section 38 as if it were the responsible authority in relation to the project for the purposes of paragraphs 20(1)(a) and 37(1)(a).

délivre un permis ou une licence ou accorde une approbation, autorisant la réalisation du projet en tout ou en partie;

b) l'autorité fédérale qui, directement ou par l'intermédiaire d'un ministre fédéral, recommande au gouverneur en conseil la prise d'une mesure visée à l'alinéa a) à l'égard du projet :

(i) est tenue de veiller à ce que l'évaluation environnementale du projet soit effectuée le plus tôt possible au stade de la planification de celui-ci, avant la prise d'une décision irrévocable,

(ii) est l'autorité responsable à l'égard du projet pour l'application de la présente loi — à l'exception du paragraphe 11(2) et des articles 20 et 37 — et de ses règlements,

(iii) est tenue de prendre en compte les rapports et observations pertinents visés aux articles 20 et 37,

(iv) le cas échéant, est tenue d'exercer à l'égard du projet les attributions de l'autorité responsable prévues à l'article 38 comme si celle-ci était l'autorité responsable à l'égard du projet pour l'application des alinéas 20(1)a) et 37(1)a).

Confidences of  
Queen's Privy  
Council for  
Canada

6. Notwithstanding any other provision of this Act, no confidence of the Queen's Privy Council for Canada in respect of which subsection 39(1) of the *Canada Evidence Act* applies shall be disclosed or made available to any person.

#### Excluded Projects

Exclusions

7. (1) Notwithstanding section 5, an environmental assessment of a project is not required where

(a) the project is described in an exclusion list;

(b) the project is to be carried out in response to a national emergency for which special temporary measures are being taken under the *Emergencies Act*; or

(c) the project is to be carried out in response to an emergency and carrying out the project forthwith is in the interest of preventing damage to property or the envi-

6. Par dérogation à toute autre disposition de la présente loi, nul renseignement confidentiel du Conseil privé de la Reine pour le Canada visé par le paragraphe 39(1) de la *Loi sur la preuve au Canada* ne peut être divulgué ni fourni à quiconque.

#### Exclusions

7. Par dérogation à l'article 5, n'ont pas à faire l'objet d'une évaluation environnementale les projets :

a) qui sont visés dans les listes d'exclusion;

b) qui sont mis en œuvre en réaction à des situations de crise nationale pour lesquelles des mesures d'intervention sont prises aux termes de la *Loi sur les mesures d'urgence*;

c) qui sont mis en œuvre en réaction à une situation d'urgence et qu'il importe, soit pour la protection de biens ou de l'environnement, soit pour la santé ou la sécurité publiques, de mettre en œuvre sans délai.

Renseigne-  
ments  
confidentiels

Exclusions

ronment or is in the interest of public health or safety.

Idem

(2) For greater certainty, an environmental assessment is not required where a federal authority exercises a power or performs a duty or function referred to in paragraph 5(1)(b) in relation to a project and the essential details of the project are not specified before or at the time the power is exercised or the duty or function is performed.

Assessments by  
Crown  
corporations  
under  
regulations

8. (1) Before a Crown corporation within the meaning of the *Financial Administration Act* or any corporation controlled by such a corporation exercises a power or performs a duty or function referred to in paragraph 5(1)(a), (b) or (c) in relation to a project, the Crown corporation shall ensure or require the corporation controlled by it to ensure, as the case may be, that an assessment of the environmental effects of the project is conducted in accordance with any regulations made for that purpose under paragraph 59(j) as early as is practicable in the planning stages of the project and before irrevocable decisions are made.

Idem

(2) Notwithstanding section 5, an environmental assessment of a project is not required by reason only of the authorization or approval by a minister of the Crown in right of Canada granted under any other Act of Parliament or any regulations made thereunder in respect of the exercise of a power or the performance of a duty or function referred to in paragraph 5(1)(a), (b) or (c) in relation to the project by a Crown corporation within the meaning of the *Financial Administration Act*.

Assessments by  
harbour  
commissions  
under  
regulations

9. Before the Hamilton Harbour Commissioners constituted pursuant to *The Hamilton Harbour Commissioners' Act*, The Toronto Harbour Commissioners constituted pursuant to *The Toronto Harbour Commissioners' Act, 1911* or any harbour commission established pursuant to the *Harbour Commissions Act* exercises a power or performs a duty or function referred to in paragraph 5(1)(a), (b) or (c) in relation to a project, it shall ensure that an assessment of the environmental effects of the project is

(2) Il est entendu qu'il n'est pas nécessaire d'effectuer une évaluation environnementale dans les cas où l'autorité fédérale exerce une attribution visée à l'alinéa 5(1)b) à l'égard d'un projet dont les détails essentiels ne sont pas déterminés avant cet exercice ou au moment de celui-ci.

Précision

8. (1) Les sociétés d'État, au sens de la *Loi sur la gestion des finances publiques*, ou les personnes morales dont elles ont le contrôle, avant d'exercer une attribution visée aux alinéas 5(1)a), b) ou c) à l'égard d'un projet, veillent à ce que soit effectuée, le plus tôt possible au stade de la planification de celui-ci, avant la prise d'une décision irrévocable, l'évaluation des effets environnementaux du projet conformément aux règlements pris aux termes de l'alinéa 59j).

Sociétés d'État

(2) Malgré l'article 5, il n'est pas nécessaire d'effectuer l'évaluation environnementale d'un projet parce qu'un ministre fédéral autorise ou approuve, en vertu d'une autre loi fédérale ou de ses règlements, l'exercice par une société d'État, au sens de la *Loi sur la gestion des finances publiques*, d'une attribution visée aux paragraphes 5(1)a), b) ou c) à l'égard du projet.

Exception

9. Les commissaires nommés en vertu de la *Loi des commissaires du havre de Hamilton* et de la *Loi de 1911 concernant les commissaires du havre de Toronto* et les commissions portuaires constituées par la *Loi sur les commissions portuaires*, avant d'exercer une attribution visée aux alinéas 5(1)a), b) ou c) à l'égard d'un projet, veillent à ce que soit effectuée, le plus tôt possible au stade de la planification de celui-ci, avant la prise d'une décision irrévocable, une évaluation des effets environnementaux du projet

Commissions  
portuaires



conducted in accordance with any regulations made for that purpose under paragraph 59(k) as early as is practicable in the planning stages of the project and before irrevocable decisions are made.

Assessments by  
band councils  
under  
regulations

10. (1) Before a person or body receives financial assistance provided by a federal authority for the purpose of enabling a project to be carried out in whole or in part on a reserve that is set apart for the use and benefit of a band and that is subject to the *Indian Act*, the council of the band for whose use and benefit the reserve has been set apart shall ensure that an assessment of the environmental effects of the project is conducted in accordance with any regulations made for that purpose under paragraph 59(l) as early as is practicable in the planning stages of the project and before irrevocable decisions are made.

Assessment not  
required

(2) Notwithstanding paragraph 5(1)(b), an environmental assessment of a project is not required by reason only of the provision of financial assistance for the purpose mentioned in subsection (1).

#### *Responsible Authority*

Timing of  
assessment

11. (1) Where an environmental assessment of a project is required, the federal authority referred to in section 5 in relation to the project shall ensure that the environmental assessment is conducted as early as is practicable in the planning stages of the project and before irrevocable decisions are made, and shall be referred to in this Act as the responsible authority in relation to the project.

No power, etc.,  
to be exercised  
until assessment  
is complete

(2) A responsible authority shall not exercise any power or perform any duty or function referred to in section 5 in relation to a project unless it takes a course of action pursuant to paragraph 20(1)(a) or 37(1)(a).

More than one  
responsible  
authority

12. (1) Where there are two or more responsible authorities in relation to a project, they shall together determine the manner in which to perform their duties and functions under this Act and the regulations.

conformément aux règlements pris aux termes de l'alinéa 59k).

Conseils de  
bande

10. (1) Avant la réception par une personne ou un organisme, de la part d'une autorité fédérale, d'une aide financière permettant la réalisation d'un projet en tout ou en partie sur une réserve mise de côté à l'usage et au profit d'une bande et assujettie à la *Loi sur les Indiens*, le conseil de cette bande veille à ce qu'une évaluation des effets environnementaux du projet soit effectuée le plus tôt possible au stade de la planification de celui-ci, avant la prise d'une décision irrévocable, conformément aux règlements pris aux termes de l'alinéa 59l).

Évaluation non  
requisse

(2) Par dérogation à l'alinéa 5(1)b), l'évaluation n'est pas rendue nécessaire seulement à cause de l'aide financière visée au paragraphe (1).

#### *Autorité responsable*

Moment de  
l'évaluation

11. (1) Dans le cas où l'évaluation environnementale d'un projet est obligatoire, l'autorité fédérale visée à l'article 5 veille à ce que l'évaluation environnementale soit effectuée le plus tôt possible au stade de la planification du projet, avant la prise d'une décision irrévocable, et est appelée, dans la présente loi, l'autorité responsable de ce projet.

Effet suspensif

(2) L'autorité responsable d'un projet ne peut exercer ses attributions à l'égard de celui-ci que si elle prend une décision aux termes des alinéas 20(1)a) ou 37(1)a).

Pluralité  
d'autorités  
responsables

12. (1) Dans le cas où plusieurs autorités responsables sont chargées d'un même projet, elles décident conjointement de la façon de remplir les obligations qui leur incombent aux termes de la présente loi et des règlements.



## Disagreement

(2) In the case of a disagreement, the Agency may advise responsible authorities and other federal authorities with respect to their powers, duties and functions under this Act and the manner in which those powers, duties and functions may be determined and allocated among them.

## Participation by federal authorities

(3) Every federal authority that is in possession of specialist or expert information or knowledge with respect to a project shall, on request, make available that information or knowledge to the responsible authority or to a mediator or a review panel.

## Cooperation with other jurisdictions

(4) Where a screening or comprehensive study of a project is to be conducted and a jurisdiction has a responsibility or an authority to conduct an assessment of the environmental effects of the project or any part thereof, the responsible authority may cooperate with that jurisdiction respecting the environmental assessment of the project.

## Definition of "jurisdiction"

(5) In this section, "jurisdiction" means

- (a) the government of a province;
- (b) an agency or a body that is established pursuant to the legislation of a province and that has powers, duties or functions in relation to an assessment of the environmental effects of a project;
- (c) a body that is established pursuant to a land claims agreement referred to in section 35 of the *Constitution Act, 1982* and that has powers, duties or functions in relation to an assessment of the environmental effects of a project; or
- (d) a governing body that is established pursuant to legislation that relates to the self-government of Indians and that has powers, duties or functions in relation to an assessment of the environmental effects of a project.

*Action of Federal Authorities Suspended*

## Action suspended

13. Where a project is described in the comprehensive study list or is referred to a mediator or a review panel, notwithstanding any other Act of Parliament, no power, duty or function conferred by or under that Act or any regulation made thereunder shall be exercised or performed that would permit the

(2) En cas de différend, l'Agence peut conseiller les autorités responsables et les autres autorités fédérales sur leurs obligations communes et sur la façon de les remplir conjointement.

## Différend

(3) Il incombe à l'autorité fédérale pourvue des connaissances voulues touchant un projet de fournir, sur demande, les renseignements pertinents à l'autorité responsable ou à un médiateur ou à une commission.

## Obligation de l'autorité fédérale

(4) L'autorité responsable peut, dans le cadre de l'examen préalable ou de l'étude approfondie d'un projet, coopérer avec l'instance qui offre sa collaboration pour l'évaluation environnementale de celui-ci et qui a la responsabilité ou le pouvoir d'effectuer, en tout ou en partie, l'évaluation des effets environnementaux d'un projet.

## Collaboration

(5) Dans le présent article, « instance » s'entend :

## Définition d'« instance »

- a) du gouvernement d'une province;
- b) d'un organisme établi sous le régime d'une loi provinciale ayant des attributions relatives à l'évaluation des effets environnementaux d'un projet;
- c) d'un organisme, constitué aux termes d'un accord sur des revendications territoriales visé à l'article 35 de la *Loi constitutionnelle de 1982*, ayant des attributions relatives à l'évaluation des effets environnementaux d'un projet;
- d) d'un organisme dirigeant, constitué par une loi relative à l'autonomie gouvernementale des Indiens, ayant des attributions relatives à l'évaluation des effets environnementaux d'un projet.

*Suspension des prises de décision*

13. Dans le cas où un projet appartient à une catégorie visée dans la liste d'étude approfondie, ou si un examen par une commission ou un médiateur doit être effectué, malgré toute autre loi fédérale, l'exercice d'une attribution qui est prévu par cette loi ou ses règlements pour mettre en œuvre le

## Suspension de la prise de décision

project to be carried out in whole or in part unless an environmental assessment of the project has been completed and a course of action has been taken in relation to the project in accordance with paragraph 37(1)(a).

projet en tout ou en partie est subordonné à l'achèvement de l'évaluation environnementale de celui-ci et à la prise d'une décision à son égard aux termes de l'alinéa 37(1)a).

#### ENVIRONMENTAL ASSESSMENT PROCESS

#### PROCESSUS D'ÉVALUATION ENVIRONNEMENTALE

##### General

##### Dispositions générales

Environmental assessment process

14. The environmental assessment process includes, where applicable,

- (a) a screening or comprehensive study and the preparation of a screening report or a comprehensive study report;
- (b) a mediation or assessment by a review panel as provided in section 29 and the preparation of a report; and
- (c) the design and implementation of a follow-up program.

14. Le processus d'évaluation environnementale d'un projet comporte, selon le cas :

- a) un examen préalable ou une étude approfondie et l'établissement d'un rapport d'examen préalable ou d'un rapport d'étude approfondie;
- b) une médiation ou un examen par une commission prévu à l'article 29 et l'établissement d'un rapport;
- c) l'élaboration et l'application d'un programme de suivi.

Processus d'évaluation environnementale

Scope of project

15. (1) The scope of the project in relation to which an environmental assessment is to be conducted shall be determined by

- (a) the responsible authority; or
- (b) where the project is referred to a mediator or a review panel, the Minister, after consulting with the responsible authority.

15. (1) L'autorité responsable ou, dans le cas où le projet est renvoyé à la médiation ou à l'examen par une commission, le ministre, après consultation de l'autorité responsable, détermine la portée du projet à l'égard duquel l'évaluation environnementale doit être effectuée.

Détermination de la portée du projet

Same assessment for related projects

(2) For the purposes of conducting an environmental assessment in respect of two or more projects,

- (a) the responsible authority, or
- (b) where at least one of the projects is referred to a mediator or a review panel, the Minister, after consulting with the responsible authority,

may determine that the projects are so closely related that they can be considered to form a single project.

(2) Dans le cadre d'une évaluation environnementale de deux ou plusieurs projets, l'autorité responsable ou, si au moins un des projets est renvoyé à la médiation ou à l'examen par une commission, le ministre, après consultation de l'autorité responsable, peut décider que deux projets sont liés assez étroitement pour être considérés comme un seul projet.

Pluralité de projets

All proposed undertakings to be considered

(3) Where a project is in relation to a physical work, an environmental assessment shall be conducted in respect of every construction, operation, modification, decommissioning, abandonment or other undertaking in relation to that physical work that is proposed by the proponent or that is, in the opinion of

(3) Est effectuée, dans l'un ou l'autre des cas suivants, l'évaluation environnementale de toute opération — construction, exploitation, modification, désaffectation, fermeture ou autre — constituant un projet lié à un ouvrage :

- a) l'opération est proposée par le promoteur;

Projet lié à un ouvrage



- (a) the responsible authority, or
- (b) where the project is referred to a mediator or a review panel, the Minister, after consulting with the responsible authority,

likely to be carried out in relation to that physical work.

- b) l'autorité responsable ou, dans le cadre d'une médiation ou de l'examen par une commission et après consultation de cette autorité, le ministre estime l'opération susceptible d'être réalisée en liaison avec l'ouvrage.

Factors to be considered

**16. (1)** Every screening or comprehensive study of a project and every mediation or assessment by a review panel shall include a consideration of the following factors:

- (a) the environmental effects of the project, including the environmental effects of malfunctions or accidents that may occur in connection with the project and any cumulative environmental effects that are likely to result from the project in combination with other projects or activities that have been or will be carried out;
- (b) the significance of the effects referred to in paragraph (a);
- (c) comments from the public that are received in accordance with this Act and the regulations;
- (d) measures that are technically and economically feasible and that would mitigate any significant adverse environmental effects of the project; and
- (e) any other matter relevant to the screening, comprehensive study, mediation or assessment by a review panel, such as the need for the project and alternatives to the project, that the responsible authority or, except in the case of a screening, the Minister after consulting with the responsible authority, may require to be considered.

Additional factors

(2) In addition to the factors set out in subsection (1), every comprehensive study of a project and every mediation or assessment by a review panel shall include a consideration of the following factors:

- (a) the purpose of the project;
- (b) alternative means of carrying out the project that are technically and economically feasible and the environmental effects of any such alternative means;

**16. (1)** L'examen préalable, l'étude approfondie, la médiation ou l'examen par une commission d'un projet portent notamment sur les éléments suivants :

- a) les effets environnementaux du projet, y compris ceux causés par les accidents ou défaillances pouvant en résulter, et les effets cumulatifs que sa réalisation, combinée à l'existence d'autres ouvrages ou à la réalisation d'autres projets ou activités, est susceptible de causer à l'environnement;
- b) l'importance des effets visés à l'alinéa a);
- c) les observations du public à cet égard, envoyées conformément à la présente loi et aux règlements;
- d) les mesures d'atténuation réalisables, sur les plans technique et économique, des effets environnementaux importants du projet;
- e) tout autre élément pertinent à l'étude approfondie, à la médiation ou à l'examen par une commission, notamment la nécessité du projet et ses solutions de rechange, — dont l'autorité responsable ou, sauf dans le cas d'un examen préalable, le ministre, après consultation de celle-ci, peut exiger la prise en compte.

Éléments à examiner

(2) L'étude approfondie d'un projet et l'évaluation environnementale qui fait l'objet d'une médiation ou d'un examen par une commission portent également sur les éléments suivants :

- a) les raisons d'être du projet;
- b) les solutions de rechange réalisables sur les plans technique et économique, et leurs effets environnementaux;
- c) la nécessité d'un programme de suivi du projet, ainsi que ses modalités;

Éléments supplémentaires



	<p>(c) the need for, and the requirements of, any follow-up program in respect of the project; and</p> <p>(d) the capacity of renewable resources that are likely to be significantly affected by the project to meet the needs of the present and those of the future.</p>	<p>d) la capacité des ressources renouvelables, risquant d'être touchées de façon importante par le projet, de répondre aux besoins du présent et à ceux des générations futures.</p>	
Determination of factors	<p>(3) The scope of the factors to be taken into consideration pursuant to paragraphs (1)(a), (b) and (d) and (2)(b), (c) and (d) shall be determined</p> <p>(a) by the responsible authority; or</p> <p>(b) where a project is referred to a mediator or a review panel, by the Minister, after consulting the responsible authority, when fixing the terms of reference of the mediation or review panel.</p>	<p>(3) L'évaluation de la portée des éléments visés aux alinéas (1)a), b) et d) et (2)b), c) et d) incombe :</p> <p>a) à l'autorité responsable;</p> <p>b) au ministre, après consultation de l'autorité responsable, lors de la détermination du mandat du médiateur ou de la commission d'examen.</p>	Obligations
Factors not included	<p>(4) An environmental assessment of a project is not required to include a consideration of the environmental effects that could result from carrying out the project in response to a national emergency for which special temporary measures are taken under the <i>Emergencies Act</i>.</p>	<p>(4) L'évaluation environnementale d'un projet n'a pas à porter sur les effets environnementaux que sa réalisation peut entraîner en réaction à des situations de crise nationale pour lesquelles des mesures d'intervention sont prises aux termes de la <i>Loi sur les mesures d'urgence</i>.</p>	Situations de crise nationale
Delegation	<p>17. (1) A responsible authority may delegate to any person, body or jurisdiction within the meaning of subsection 12(5) any part of the screening or comprehensive study of a project or the preparation of the screening report or comprehensive study report, and may delegate any part of the design and implementation of a follow-up program, but shall not delegate the duty to take a course of action pursuant to subsection 20(1) or 37(1).</p>	<p>17. (1) L'autorité responsable d'un projet peut déléguer à un organisme, une personne ou une instance, au sens du paragraphe 12(5), l'exécution de l'examen préalable ou de l'étude approfondie, ainsi que les rapports correspondants, et la conception et la mise en œuvre d'un programme de suivi, à l'exclusion de toute prise de décision aux termes du paragraphe 20(1) ou 37(1).</p>	Délégation
Idem	<p>(2) For greater certainty, a responsible authority shall not take a course of action pursuant to subsection 20(1) or 37(1) unless it is satisfied that any duty or function delegated pursuant to subsection (1) has been carried out in accordance with this Act and the regulations.</p>	<p>(2) Il est entendu que l'autorité responsable qui a délégué l'exécution de l'examen ou de l'étude ainsi que l'établissement des rapports en vertu du paragraphe (1) ne peut prendre une décision aux termes du paragraphe 20(1) ou 37(1) que si elle est convaincue que les attributions déléguées ont été exercées conformément à la présente loi et à ses règlements</p>	Précision
	<p><i>Screening</i></p>	<p><i>Examen préalable</i></p>	
Screening	<p>18. (1) Where a project is not described in the comprehensive study list or the exclusion list, the responsible authority shall ensure that</p>	<p>18. (1) Dans le cas où le projet n'est pas visé dans une liste d'étude approfondie ou dans les listes d'exclusion, l'autorité responsable veille :</p>	Examen préalable

- (a) a screening of the project is conducted; and
- (b) a screening report is prepared.

- a) à ce qu'en soit effectué l'examen préalable;
- b) à ce que soit établi un rapport d'examen préalable.

Source of  
information

(2) Any available information may be used in conducting the screening of a project, but where a responsible authority is of the opinion that the information available is not adequate to enable it to take a course of action pursuant to subsection 20(1), it shall ensure that any studies and information that it considers necessary for that purpose are undertaken or collected.

(2) Dans le cadre de l'examen préalable qu'elle effectue, l'autorité responsable peut utiliser tous les renseignements disponibles; toutefois, si elle est d'avis qu'il n'existe pas suffisamment de renseignements pour lui permettre de prendre une décision en vertu du paragraphe 20(1), elle fait procéder aux études qu'elle estime nécessaires à leur obtention.

Information

Consideration  
of public  
comments

(3) Where the responsible authority is of the opinion that public participation in the screening of a project is appropriate in the circumstances, or where required by regulation, the responsible authority shall give the public notice and an opportunity to examine and comment on the screening report and on any record that has been filed in the public registry established in respect of the project pursuant to section 55 before taking a course of action under section 20.

(3) Avant de prendre sa décision aux termes de l'article 20, l'autorité responsable, dans les cas où elle estime que la participation du public à l'examen préalable est indiquée ou dans le cas où les règlements l'exigent, avise celui-ci et lui donne la possibilité d'examiner le rapport d'examen préalable et les documents consignés au registre public établi aux termes de l'article 55 et de faire ses observations à leur égard.

Participation du  
public

Declaration of  
class screening  
report

**19.** (1) Subject to subsection (2), the Agency may, on the request of the responsible authority and where the Agency determines that a screening report could be used as a model in conducting screenings of other projects within the same class, declare that report to be a class screening report.

**19.** (1) Sous réserve du paragraphe (2), l'Agence, sur demande de l'autorité responsable, peut, si elle décide qu'un rapport d'examen préalable peut servir de modèle pour d'autres projets appartenant à la même catégorie, faire une déclaration à cet effet.

Déclaration

Public notice  
and consider-  
ation of public  
comments

(2) The Agency shall, before making a declaration pursuant to subsection (1),

(a) publish in the *Canada Gazette* a notice setting out the following information, namely,

- (i) the date on which the screening report will be available to the public,
- (ii) the place at which copies of the screening report may be obtained, and
- (iii) the deadline and address for filing comments on the appropriateness of the use of the screening report as a model in conducting screenings of other projects within the same class; and

(b) take into consideration any comments filed in respect of the screening report.

(2) Avant de faire une déclaration, l'Agence :

a) publie dans la *Gazette du Canada* un avis contenant les éléments suivants :

- (i) la date à laquelle le rapport d'examen préalable sera accessible au public,
- (ii) le lieu d'obtention d'exemplaires du rapport,
- (iii) l'adresse et la date limite pour la réception par elle d'observations sur l'applicabilité du rapport comme modèle pour d'autres projets appartenant à la même catégorie;

b) prend en compte les commentaires reçus sur le rapport.

Idem



Publication	(3) Any declaration made pursuant to subsection (1) shall be published in the <i>Canada Gazette</i> and the screening report to which it relates shall be made available to the public at the registry maintained by the Agency.	(3) La déclaration est publiée dans la <i>Gazette du Canada</i> et le rapport est accessible au public et consigné au registre tenu par l'Agence.	Publication
Use of class screening report	(4) Where a project or part of a project is within a class in respect of which a class screening report has been declared, the responsible authority may use or permit the use of that report and the screening on which it is based to whatever extent the responsible authority considers appropriate for the purpose of complying with section 18.	(4) Si tout ou partie d'un projet appartient à une catégorie de projets pour laquelle une déclaration a été faite aux termes du paragraphe (1), l'autorité responsable peut permettre l'utilisation de tout ou partie de l'examen préalable et du rapport correspondant dans la mesure qu'elle estime indiquée pour l'application de l'article 18.	Catégorie de projets
Necessary adjustments	(5) Where a responsible authority uses or permits the use of a class screening report, it shall ensure that any adjustments are made to the report that are necessary to take into account local circumstances and any cumulative environmental effects that may result from the project in combination with other projects or activities that have been or will be carried out.	(5) Dans les cas visés au paragraphe (4), l'autorité responsable veille à ce que soient apportées au rapport les adaptations nécessaires à la prise en compte des facteurs locaux et des effets environnementaux cumulatifs qui, selon elle, peuvent résulter de la réalisation du projet combinée à l'existence d'autres ouvrages ou à la réalisation d'autres projets ou activités.	Adaptations
Declaration to remove class screening report	(6) Where the Agency determines that a class screening report can no longer be used as a model in conducting screenings of other projects within the same class, the Agency may declare the report not to be a class screening report.	(6) L'Agence, si elle décide qu'un rapport d'examen préalable ne peut plus servir de modèle pour d'autres projets appartenant à la même catégorie, peut faire une déclaration à cet effet.	Déclaration
Publication	(7) Any declaration made pursuant to subsection (6) shall be published in the <i>Canada Gazette</i> and the screening report in respect of which it relates shall be removed from the public registry maintained by the Agency.	(7) La déclaration faite aux termes du paragraphe (6) est publiée dans la <i>Gazette du Canada</i> et le rapport qu'elle vise est retranché du registre public établi par l'Agence.	Idem
Decision of responsible authority following a screening	<p>20. (1) The responsible authority shall take one of the following courses of action in respect of a project after taking into consideration the screening report and any comments filed pursuant to subsection 18(3):</p> <p>(a) subject to subparagraph (c)(iii), where, taking into account the implementation of any mitigation measures that the responsible authority considers appropriate, the project is not likely to cause significant adverse environmental effects, the responsible authority may exercise any power or perform any duty or function that would permit the project to be carried out and shall ensure that any mitigation</p>	<p>20. (1) L'autorité responsable prend l'une des mesures suivantes, après avoir pris en compte le rapport d'examen préalable et les observations reçues aux termes du paragraphe 18(3) :</p> <p>a) sous réserve du sous-alinéa c)(iii), si la réalisation du projet n'est pas susceptible, compte tenu de l'application des mesures d'atténuation qu'elle estime indiquées, d'entraîner des effets environnementaux négatifs importants, exercer ses attributions afin de permettre la mise en œuvre du projet et veiller à l'application de ces mesures d'atténuation;</p> <p>b) si, compte tenu de l'application des mesures d'atténuation qu'elle estime indi-</p>	Décision de l'autorité responsable



measures that the responsible authority considers appropriate are implemented;

(b) where, taking into account the implementation of any mitigation measures that the responsible authority considers appropriate, the project is likely to cause significant adverse environmental effects that cannot be justified in the circumstances, the responsible authority shall not exercise any power or perform any duty or function conferred on it by or under any Act of Parliament that would permit the project to be carried out in whole or in part; or

(c) where

(i) it is uncertain whether the project, taking into account the implementation of any mitigation measures that the responsible authority considers appropriate, is likely to cause significant adverse environmental effects,

(ii) the project, taking into account the implementation of any mitigation measures that the responsible authority considers appropriate, is likely to cause significant adverse environmental effects and paragraph (b) does not apply, or

(iii) public concerns warrant a reference to a mediator or a review panel,

the responsible authority shall refer the project to the Minister for a referral to a mediator or a review panel in accordance with section 29.

Responsible authority to ensure implementation of mitigation measures

(2) Where a responsible authority takes a course of action referred to in paragraph (1)(a), it shall, notwithstanding any other Act of Parliament, in the exercise of its powers or the performance of its duties or functions under that other Act or any regulation made thereunder or in any other manner that the responsible authority considers necessary, ensure that any mitigation measures referred to in that paragraph in respect of the project are implemented.

All federal authorities prohibited from proceeding with project

(3) Where the responsible authority takes a course of action pursuant to paragraph (1)(b) in relation to a project,

(a) the responsible authority shall file a notice of that course of action in the public

quéés, la réalisation du projet est susceptible d'entraîner des effets environnementaux négatifs importants qui ne peuvent être justifiés dans les circonstances, ne pas exercer les attributions qui lui sont conférées sous le régime d'une loi fédérale et qui pourraient lui permettre la mise en œuvre du projet en tout ou en partie;

c) s'adresser au ministre pour une médiation ou un examen par une commission prévue à l'article 29 :

(i) s'il n'est pas clair, compte tenu de l'application des mesures d'atténuation qu'elle estime indiquées, que la réalisation du projet soit susceptible d'entraîner des effets environnementaux négatifs importants,

(ii) si la réalisation du projet, compte tenu de l'application de mesures d'atténuation qu'elle estime indiquées, est susceptible d'entraîner des effets environnementaux négatifs importants et si l'alinéa b) ne s'applique pas,

(iii) si les préoccupations du public le justifient.

(2) L'autorité responsable qui prend la décision visée à l'alinéa (1)a) veille, malgré toute autre disposition d'une loi fédérale, lors de l'exercice des attributions qui lui sont conférées sous le régime de cette loi ou de ses règlements ou selon les autres modalités qu'elle estime indiquées, à l'application des mesures d'atténuation visées à cet alinéa.

Application des mesures d'atténuation

(3) L'autorité responsable qui prend la décision visée à l'alinéa (1)b) à l'égard d'un projet fait consigner un avis de sa décision au registre public tenu aux termes de l'article 55 pour le projet, et, malgré toute autre disposi-

Interdiction de mise en œuvre

registry established in respect of the project pursuant to section 55; and

(b) notwithstanding any other Act of Parliament, no power, duty or function conferred by or under that Act or any regulation made thereunder shall be exercised or performed that would permit that project to be carried out in whole or in part.

### *Comprehensive Study*

Comprehensive study

**21.** Where a project is described in the comprehensive study list, the responsible authority shall

(a) ensure that a comprehensive study is conducted, and a comprehensive study report is prepared and provided to the Minister and the Agency; or

(b) refer the project to the Minister for a referral to a mediator or a review panel in accordance with section 29.

Public notice

**22.** (1) After receiving a comprehensive study report in respect of a project, the Agency shall, in any manner it considers appropriate to facilitate public access to the report, publish a notice setting out the following information:

(a) the date on which the comprehensive study report will be available to the public;

(b) the place at which copies of the report may be obtained; and

(c) the deadline and address for filing comments on the conclusions and recommendations of the report.

Public concerns

(2) Prior to the deadline set out in the notice published by the Agency, any person may file comments with the Agency relating to the conclusions and recommendations and any other aspect of the comprehensive study report.

Decision of Minister

**23.** The Minister shall take one of the following courses of action in respect of a project after taking into consideration the comprehensive study report and any comments filed pursuant to subsection 22(2):

(a) subject to subparagraph (b)(iii), where, taking into account the implemen-

tion d'une loi fédérale, aucune attribution conférée sous le régime de cette loi ou de ses règlements ne peut être exercée de façon qui pourrait permettre la mise en œuvre du projet en tout ou en partie.

### *Étude approfondie*

Étude approfondie

**21.** Dans le cas où le projet est visé dans la liste d'étude approfondie, l'autorité responsable a le choix :

a) de veiller à ce que soit effectuée, en conformité avec les règlements, une étude approfondie et à ce que soit présenté au ministre et à l'Agence un rapport de cette étude;

b) de s'adresser au ministre afin qu'il fasse effectuer, aux termes de l'article 29, une médiation ou un examen par une commission.

Avis public

**22.** (1) Quand elle reçoit un rapport d'étude approfondie, l'Agence donne avis, de la façon qu'elle estime indiquée pour favoriser l'accès du public au rapport, des éléments suivants :

a) la date à laquelle le rapport d'étude approfondie sera accessible au public;

b) le lieu d'obtention d'exemplaires du rapport;

c) l'adresse et la date limite pour la réception par celle-ci d'observations sur les conclusions et recommandations du rapport.

Observations du public

(2) Toute personne peut, dans le délai indiqué dans l'avis publié par l'Agence, lui présenter ses observations relativement aux conclusions ou recommandations issues de l'étude approfondie ou à tout autre aspect du rapport qui y fait suite.

Décision du ministre

**23.** Après avoir pris en compte le rapport d'étude approfondie et les observations qui ont été présentées en vertu du paragraphe 22(2), le ministre :

a) renvoie le projet à l'autorité responsable pour une décision aux termes de l'article 37, si sous réserve du sous-alinéa b)(iii)

tation of any appropriate mitigation measures,

(i) the project is not likely to cause significant adverse environmental effects, or

(ii) the project is likely to cause significant adverse environmental effects that cannot be justified in the circumstances,

the Minister shall refer the project back to the responsible authority for action to be taken under section 37; or

(b) where,

(i) it is uncertain whether the project, taking into account the implementation of any appropriate mitigation measures, is likely to cause significant adverse environmental effects,

(ii) the project, taking into account the implementation of any appropriate mitigation measures, is likely to cause significant adverse environmental effects and subparagraph (a)(ii) does not apply, or

(iii) public concerns warrant a reference to a mediator or a review panel,

the Minister shall refer the project to a mediator or a review panel in accordance with section 29.

**24. (1)** Where a proponent proposes to carry out, in whole or in part, a project for which an environmental assessment was previously conducted and

(a) the project did not proceed after the assessment was completed,

(b) in the case of a project that is in relation to a physical work, the proponent proposes an undertaking in relation to that work different from that proposed when the assessment was conducted,

(c) the manner in which the project is to be carried out has subsequently changed, or

(d) the renewal of a licence, permit, approval or other action under a prescribed provision is sought,

the responsible authority may use or permit the use of that assessment and the report thereon to whatever extent it is appropriate

et compte tenu de l'application des mesures d'atténuation indiquées, la réalisation du projet, selon le cas :

(i) n'est pas susceptible d'entraîner des effets environnementaux négatifs importants,

(ii) est susceptible d'entraîner des effets environnementaux négatifs importants qui ne peuvent être justifiés dans les circonstances;

b) fait procéder à une médiation ou à un examen par une commission conformément à l'article 29 dans chacun des cas suivants :

(i) il n'est pas clair, compte tenu de l'application des mesures d'atténuation indiquées, que le projet soit susceptible d'entraîner des effets environnementaux négatifs importants,

(ii) que la réalisation du projet, compte tenu de l'application des mesures d'atténuation indiquées, est susceptible d'entraîner des effets environnementaux négatifs importants et que le sous-alinéa a)(ii) ne s'applique pas,

(iii) les préoccupations du public le justifient.

**24. (1)** Si un promoteur se propose de mettre en œuvre, en tout ou en partie, un projet ayant déjà fait l'objet d'une évaluation environnementale, l'autorité responsable peut utiliser ou permettre l'utilisation de l'évaluation et du rapport correspondant, dans la mesure appropriée pour l'application des articles 18 ou 21 dans chacun des cas suivants :

a) le projet n'a pas été mis en œuvre après l'achèvement de l'évaluation;

b) le projet est lié à un ouvrage à l'égard duquel le promoteur propose une réalisation différente de celle qui était proposée au moment de l'évaluation;

c) modification des modalités de mise en œuvre du projet qui ont fait l'objet de l'évaluation;

d) demande de prise d'une mesure en vertu d'une disposition prévue par règle-

Use of  
previously  
conducted  
environmental  
assessment

Utilisation  
d'une  
évaluation  
antérieure



for the purpose of complying with section 18 or 21.

Necessary  
adjustments

(2) Where a responsible authority uses or permits the use of an environmental assessment and the report thereon pursuant to subsection (1), the responsible authority shall ensure that any adjustments are made to the report that are necessary to take into account any significant changes in the environment and in the circumstances of the project.

#### *Discretionary Powers*

Referral to  
Minister

**25.** Subject to paragraphs 20(1)(b) and (c), where at any time a responsible authority is of the opinion that

(a) a project, taking into account the implementation of any mitigation measures that the responsible authority considers appropriate, may cause significant adverse environmental effects, or

(b) public concerns warrant a reference to a mediator or a review panel,

the responsible authority may request the Minister to refer the project to a mediator or a review panel in accordance with section 29.

Termination by  
responsible  
authority

**26.** Where at any time a responsible authority decides not to exercise any power or perform any duty or function referred to in section 5 in relation to a project that has not been referred to a mediator or a review panel, it may terminate the environmental assessment of the project.

Termination by  
Minister

**27.** Where at any time a responsible authority decides not to exercise any power or perform any duty or function referred to in section 5 in relation to a project that has been referred to a mediator or a review panel, the Minister may terminate the environmental assessment of the project.

Referral by  
Minister

**28.** Where at any time the Minister is of the opinion that

(a) a project for which an environmental assessment may be required under section 5, taking into account the implementation of any appropriate mitigation measures,

notamment le renouvellement d'un permis, d'une licence ou d'une autorisation.

Adaptations  
nécessaires

(2) Dans les cas visés au paragraphe (1), l'autorité responsable veille à ce que soient apportées au rapport les adaptations nécessaires à la prise en compte des changements importants de circonstances survenus depuis l'évaluation.

#### *Pouvoirs d'appréciation*

Examen par  
une commission

**25.** Sous réserve des alinéas 20(1)(b) et c), à tout moment, si elle estime soit que le projet, compte tenu de l'application des mesures d'atténuation qu'elle estime indiquées, peut entraîner des effets environnementaux négatifs importants, soit que les préoccupations du public justifient une médiation ou un examen par une commission, l'autorité responsable peut demander au ministre d'y faire procéder conformément à l'article 29.

Arrêt d'une  
évaluation  
environnementale

**26.** L'autorité responsable peut, à tout moment au cours d'une évaluation environnementale qui n'a pas fait l'objet d'une médiation ou d'un examen par une commission, mettre fin à l'évaluation si elle décide de ne pas exercer les attributions visées à l'article 5 qu'elle possède à l'égard du projet.

Pouvoir du  
ministre

**27.** Le ministre peut, à tout moment au cours d'une évaluation environnementale qui fait l'objet d'une médiation ou d'un examen par une commission, mettre fin à l'évaluation si l'autorité responsable décide de ne pas exercer les attributions visées à l'article 5 qu'elle possède à l'égard du projet.

Idem

**28.** À tout moment, le ministre, après avoir offert de consulter l'instance, au sens du paragraphe 12(5), responsable du lieu où le projet doit être réalisé et après consultation de l'autorité responsable, ou, à défaut, de toute autorité fédérale compétente, s'il estime soit qu'un projet assujéti à l'évalua-

may cause significant adverse environmental effects, or

(b) public concerns warrant a reference to a mediator or a review panel,

the Minister may, after offering to consult with the jurisdiction, within the meaning of subsection 12(5), where the project is to be carried out and after consulting with the responsible authority or, where there is no responsible authority in relation to the project, the appropriate federal authority, refer the project to a mediator or a review panel in accordance with section 29.

#### *Mediation and Panel Reviews*

Initial referral  
to mediator or  
review panel

**29.** (1) Subject to subsection (2), where a project is to be referred to a mediator or a review panel, the Minister shall

(a) refer the environmental assessment relating to the project to

(i) a mediator, or

(ii) a review panel; or

(b) refer part of the environmental assessment relating to the project to a mediator and part of that assessment to a review panel.

Condition on  
reference to  
mediator

(2) An environmental assessment or a part thereof shall not be referred to a mediator unless the interested parties have been identified and are willing to participate in the mediation.

Subsequent  
reference to a  
mediator

(3) The Minister may, at any time, refer any issue relating to an assessment by a review panel to a mediator where the Minister is of the opinion, after consulting with the review panel, that mediation is appropriate in respect of that issue.

Subsequent  
reference to a  
review panel

(4) Where at any time after an environmental assessment or part of an environmental assessment of a project has been referred to a mediator, the Minister or the mediator determines that the mediation of any issue subject to the mediation is not likely to produce a result that is satisfactory to all the participants to the mediation, the Minister shall terminate the mediation of the issue and refer the issue to a review panel.

tion environnementale aux termes de l'article 5 peut, compte tenu de l'application des mesures d'atténuation indiquées, entraîner des effets environnementaux négatifs importants, soit que les préoccupations du public le justifient, peut faire procéder à une médiation ou à un examen par une commission conformément à l'article 29.

#### *Médiation ou examen par une commission*

Décision du  
ministre

**29.** (1) Sous réserve du paragraphe (2), dans le cas où un projet doit faire l'objet d'une médiation ou d'un examen par une commission, le ministre :

a) soit renvoie l'évaluation environnementale du projet à un médiateur ou à une commission;

b) soit renvoie une partie de l'évaluation environnementale du projet à un médiateur et une partie de celle-ci à une commission.

Conditions

(2) Le ministre ne renvoie la totalité d'une évaluation environnementale ou une partie de celle-ci à un médiateur que si les parties intéressées ont été identifiées et acceptent de participer à la médiation.

Pouvoir du  
ministre

(3) À tout moment le ministre peut renvoyer une question relative à une évaluation environnementale soumise à l'examen par une commission à un médiateur si, après avoir consulté la commission d'examen, il estime que la médiation est indiquée relativement à cette question.

Idem

(4) Dans le cas où, à tout moment après le renvoi de l'évaluation environnementale d'un projet ou d'une partie de celle-ci à un médiateur, le ministre ou le médiateur estime que la question soumise à la médiation n'est pas susceptible d'être résolue par la médiation à la satisfaction des parties intéressées, le ministre peut mettre fin à la médiation relativement à cette question et soumettre celle-ci à l'examen par une commission.

Appointment of mediator

**30.** (1) Where a reference is made under subparagraph 29(1)(a)(i) in relation to a project, the Minister shall, after consulting with the responsible authority and all parties who are to participate in the mediation,

- (a) appoint as mediator any person who
  - (i) is unbiased and free from any conflict of interest relative to the project and who has knowledge or experience in acting as a mediator, and
  - (ii) may have been selected from a roster established pursuant to subsection (2); and
- (b) fix the terms of reference of the mediation.

Establishment of roster

(2) The Minister may establish a roster of persons to act as mediators to be appointed pursuant to paragraph (1)(a).

Additional participants

**31.** The mediator may, at any time, allow an additional interested party to participate in a mediation.

Mediation report

**32.** (1) A mediator shall, at the conclusion of the mediation, prepare and submit a report to the Minister and to the responsible authority.

Privilege

(2) No evidence of or relating to a statement made by a mediator or a participant to the mediation during the course of and for the purposes of the mediation is admissible without the consent of the mediator or participant, in any proceeding before a review panel, court, tribunal, body or person with jurisdiction to compel the production of evidence.

Appointment of review panel

**33.** (1) Where a project is referred to a review panel, the Minister shall, in consultation with the responsible authority,

- (a) appoint as members of the panel, including the chairperson thereof, persons who
  - (i) are unbiased and free from any conflict of interest relative to the project and who have knowledge or experience relevant to the anticipated environmental effects of the project, and

**30.** (1) S'il effectue le renvoi au médiateur visé à l'alinéa 29(1)a), le ministre, après consultation de l'autorité responsable et des parties qui doivent participer à la médiation :

- a) nomme médiateur une personne :
  - (i) impartiale, non en conflit d'intérêts avec le projet et pourvue des connaissances ou de l'expérience voulues pour agir comme médiateur,
  - (ii) qui peut avoir été choisie sur la liste établie en vertu du paragraphe (2);
- b) fixe son mandat.

Nomination du médiateur

(2) Le ministre peut établir une liste de personnes qui peuvent être nommées médiateurs aux termes de l'alinéa (1)a).

Liste

**31.** Le médiateur peut, à tout moment, permettre à une partie intéressée supplémentaire de participer à la médiation.

Parties

**32.** (1) Dès l'achèvement de la médiation, le médiateur présente un rapport au ministre et à l'autorité responsable.

Rapport du médiateur

(2) Sauf consentement du médiateur ou d'un participant à la médiation, les déclarations faites par l'un ou l'autre de ceux-ci dans le cadre de la médiation ne sont pas admissibles en preuve devant un organisme ou une personne habilités à contraindre des personnes à déposer en justice, notamment une commission ou un tribunal.

Inadmissibilité en preuve des déclarations

**33.** (1) Le ministre, en consultation avec l'autorité responsable, nomme les membres, y compris le président, de la commission d'évaluation environnementale et fixe le mandat de celle-ci. À cette fin, le ministre choisit des personnes :

Commission

- a) impartiales, non en conflit d'intérêts avec le projet et pourvues des connaissances ou de l'expérience voulues touchant les effets environnementaux prévisibles du projet;
- b) qui peuvent avoir été choisies sur la liste établie en vertu du paragraphe (2).



Establishment  
of roster

(ii) may have been selected from a roster established pursuant to subsection (2); and

(b) fix the terms of reference of the panel.

(2) The Minister may establish a roster of persons, to act as members of any review panel to be established pursuant to paragraph (1)(a).

Assessment by  
review panel

34. A review panel shall, in accordance with any regulations made for that purpose and with its term of reference,

(a) ensure that the information required for an assessment by a review panel is obtained and made available to the public;

(b) hold hearings in a manner that offers the public an opportunity to participate in the assessment;

(c) prepare a report setting out

(i) the rationale, conclusions and recommendations of the panel relating to the environmental assessment of the project, including any mitigation measures and follow-up program, and

(ii) a summary of any comments received from the public; and

(d) submit the report to the Minister and the responsible authority.

Powers of  
review panel

35. (1) A review panel has the power of summoning any person to appear as a witness before the panel and of ordering the witness to

(a) give evidence, orally or in writing; and

(b) produce such documents and things as the panel considers necessary for conducting its assessment of the project.

Enforcement  
powers

(2) A review panel has the same power to enforce the attendance of witnesses and to compel them to give evidence and produce documents and other things as is vested in a court of record.

Hearings to be  
public

(3) A hearing by a review panel shall be public unless the panel is satisfied after representations made by a witness that specific, direct and substantial harm would be caused to the witness by the disclosure of the evidence, documents or other things that the

(2) Le gouverneur en conseil peut établir une liste de personnes qui peuvent être nommées membres d'une commission aux termes de l'alinéa (1)a).

Liste

34. La commission, conformément à son mandat et aux règlements pris à cette fin :

Commission  
d'évaluation  
environnementale

a) veille à l'obtention des renseignements nécessaires à l'évaluation environnementale d'un projet et veille à ce que le public y ait accès;

b) tient des audiences de façon à donner au public la possibilité de participer à l'évaluation environnementale du projet;

c) établit un rapport assorti de sa justification, de ses conclusions et recommandations relativement à l'évaluation environnementale du projet, notamment aux mesures d'atténuation et au programme de suivi, et énonçant, sous la forme d'un résumé, les observations reçues du public;

d) présente son rapport au ministre et à l'autorité responsable.

35. (1) La commission a le pouvoir d'assigner devant elle des témoins et de leur ordonner de :

Pouvoirs de la  
commission

a) déposer oralement ou par écrit;

b) produire les documents et autres pièces qu'elle juge nécessaires en vue de procéder à l'examen dont elle est chargée.

(2) La commission a, pour contraindre les témoins à comparaître, à déposer et à produire des pièces, les pouvoirs d'une cour d'archives.

Pouvoirs de  
contrainte

(3) Les audiences de la commission sont publiques sauf si elle décide, à la suite d'observations faites par le témoin, que la communication des éléments de preuve, documents ou objets qu'il est tenu de présenter au titre du présent article lui causerait directement un préjudice réel et sérieux.

Audiences  
publiques

witness is ordered to give or produce pursuant to subsection (1).

Non-disclosure

(4) Where a review panel is satisfied that the disclosure of evidence, documents or other things would cause specific, direct and substantial harm to a witness, the evidence, documents or things are privileged and shall not, without the authorization of the witness, knowingly be or be permitted to be communicated, disclosed or made available by any person who has obtained the evidence, documents or other things pursuant to this Act.

Enforcement of summonses and orders

(5) Any summons issued or order made by a review panel pursuant to subsection (1) shall, for the purposes of enforcement, be made a summons or order of the Federal Court by following the usual practice and procedure.

Immunity

(6) No action or other proceeding lies or shall be commenced against a member of a review panel for or in respect of anything done or omitted to be done, during the course of and for the purposes of the assessment by the review panel.

Public notice

36. On receiving a report submitted by a mediator or a review panel, the Minister shall make the report available to the public in any manner the Minister considers appropriate to facilitate public access to the report, and shall advise the public that the report is available.

#### *Decision of Responsible Authority*

Decision of responsible authority

37. (1) The responsible authority shall take one of the following courses of action in respect of a project after taking into consideration the report submitted by a mediator or a review panel or, in the case of a project referred back to the responsible authority pursuant to paragraph 23(a), the comprehensive study report:

(a) where, taking into account the implementation of any mitigation measures that the responsible authority considers appropriate,

(i) the project is not likely to cause significant adverse environmental effects, or

(4) Si la commission conclut que la communication d'éléments de preuve, de documents ou d'objets causerait directement un préjudice réel et sérieux au témoin, ces éléments de preuve, documents ou objets sont protégés; la personne qui les a obtenus en vertu de la présente loi ne peut sciemment les communiquer ou permettre qu'ils le soient sans l'autorisation du témoin.

Non-communication

(5) Aux fins de leur exécution, les assignations faites et ordonnances rendues aux termes du paragraphe (1) sont, selon la procédure habituelle, assimilées aux assignations ou ordonnances de la Cour fédérale.

Exécution des assignations et ordonnances

(6) Les membres d'une commission d'examen sont soustraits aux poursuites et autres procédures pour les faits — actes ou omissions — censés accomplis dans le cadre d'un examen par la commission.

Immunité

36. Sur réception du rapport du médiateur ou de la commission d'évaluation environnementale, le ministre en donne avis public et en favorise l'accès par le public de la manière qu'il estime indiquée.

Publication

#### *Décision de l'autorité responsable*

37. (1) L'autorité responsable, après avoir pris en compte le rapport du médiateur ou de la commission ou si le ministre, à la suite d'une étude approfondie, lui demande de prendre une décision aux termes de l'alinéa 23a), prend l'une des décisions suivantes :

Autorité responsable

a) si, compte tenu de l'application des mesures d'atténuation qu'elle estime indiquées, la réalisation du projet n'est pas susceptible d'entraîner des effets environnementaux négatifs importants ou est susceptible d'entraîner des effets environnementaux qui sont justifiables dans les circonstances, exercer ses attributions afin de permettre la mise en œuvre du projet et

(ii) the project is likely to cause significant adverse environmental effects that can be justified in the circumstances,

the responsible authority may exercise any power or perform any duty or function that would permit the project to be carried out in whole or in part and shall ensure that those mitigation measures are implemented; or

(b) where, taking into account the implementation of any mitigation measures that the responsible authority considers appropriate, the project is likely to cause significant adverse environmental effects that cannot be justified in the circumstances, the responsible authority shall not exercise any power or perform any duty or function conferred on it by or under any Act of Parliament that would permit the project to be carried out in whole or in part.

Responsible authority to ensure implementation of mitigation measures

(2) Where a responsible authority takes a course of action referred to in paragraph (1)(a), it shall, notwithstanding any other Act of Parliament, in the exercise of its powers or the performance of its duties or functions under that other Act or any regulation made thereunder or in any other manner that the responsible authority considers necessary, ensure that any mitigation measures referred to in that paragraph in respect of the project are implemented.

All federal authorities prohibited from proceeding with project

(3) Where the responsible authority takes a course of action referred to in paragraph (1)(b) in relation to a project,

(a) the responsible authority shall file a notice of that course of action in the public registry established in respect of the project pursuant to section 55; and

(b) notwithstanding any other Act of Parliament, no power, duty or function conferred by or under that Act or any regulation made thereunder shall be exercised or performed that would permit that project to be carried out in whole or in part.

#### *Follow-up Program*

Design and implementation

38. (1) Where a responsible authority takes a course of action pursuant to paragraph 20(1)(a) or 37(1)(a), it shall, in accordance with any regulations made for

veiller à l'application de ces mesures d'atténuation;

b) si, compte tenu de l'application des mesures d'atténuation qu'elle estime indiquées, la réalisation du projet est susceptible d'entraîner des effets environnementaux qui ne sont pas justifiables dans les circonstances, ne pas exercer les attributions qui lui sont conférées sous le régime d'une loi fédérale et qui pourraient permettre la mise en œuvre du projet en tout ou en partie.

(2) L'autorité responsable qui prend la décision visée à l'alinéa (1)a) veille, malgré toute autre disposition d'une loi fédérale, lors de l'exercice des attributions qui lui sont conférées sous le régime de cette loi ou de ses règlements ou selon les autres modalités qu'elle estime indiquées, à l'application des mesures d'atténuation visées à cet alinéa.

Précision

(3) L'autorité responsable qui prend la décision visée à l'alinéa (1)b) à l'égard d'un projet fait consigner un avis de sa décision au registre public tenu aux termes de l'article 55 pour le projet, et, malgré toute autre disposition d'une loi fédérale, aucune attribution conférée sous le régime de cette loi ou de ses règlements ne peut être exercée de façon qui pourrait permettre la mise en œuvre du projet en tout ou en partie.

Interdiction de mise en œuvre

#### *Programme de suivi*

38. (1) L'autorité responsable qui décide de la mise en œuvre conformément aux alinéas 20(1)a) ou 37(1)a) élabore, conformément aux règlements pris à cette fin, tout

Suivi



that purpose, design any follow-up program that it considers appropriate for the project and arrange for the implementation of that program.

Public notice

(2) A responsible authority referred to in subsection (1) shall, in accordance with any regulations made for that purpose, advise the public of

- (a) its course of action in relation to the project;
- (b) any mitigation measures to be implemented with respect to the adverse environmental effects of the project;
- (c) the extent to which the recommendations set out in any report submitted by a mediator or a review panel have been adopted and the reasons for not having adopted any of those recommendations;
- (d) any follow-up program designed for the project pursuant to subsection (1); and
- (e) any results of any follow-up program.

#### *Certificate*

Certificate

39. A certificate that states that an environmental assessment of a project has been completed, and that is signed by a responsible authority that exercises a power or performs a duty or function referred to in paragraph 5(1)(c) in relation to the project, is, in the absence of evidence to the contrary, proof of the matter stated.

#### *Joint Review Panels*

Definition of "jurisdiction"

40. (1) For the purposes of this section and sections 41 and 42, "jurisdiction" includes

- (a) a federal authority;
- (b) the government of a province;
- (c) any other agency or body established pursuant to an Act of Parliament or the legislature of a province and having powers, duties or functions in relation to an assessment of the environmental effects of a project;
- (d) any body established pursuant to a land claims agreement referred to in section 35 of the *Constitution Act, 1982* and having powers, duties or functions in rela-

programme de suivi qu'elle estime indiqué et veille à son application.

(2) L'autorité responsable visée au paragraphe (1) porte à la connaissance du public, conformément aux règlements pris à cette fin, les renseignements suivants :

- a) sa décision relativement au projet;
- b) les mesures d'atténuation des effets environnementaux négatifs, s'il y a lieu;
- c) si une médiation ou un examen par une commission a eu lieu, la suite qu'elle entend donner aux recommandations issues des rapports de médiation ou d'examen par une commission et les motifs du rejet d'une recommandation;
- d) le programme de suivi élaboré en application du paragraphe (1);
- e) les résultats du programme de suivi.

Renseignements

#### *Certificat*

Certificat d'évaluation environnementale

39. Le certificat signé par l'autorité responsable qui exerce une attribution visée à l'alinéa 5(1)c) et où il est déclaré qu'une évaluation environnementale a été effectuée fait foi, sauf preuve contraire, de son contenu.

#### *Examen conjoint*

Définition de « instance »

40. (1) Pour l'application du présent article et des articles 41 et 42, « instance » s'entend notamment :

- a) d'une autorité fédérale;
- b) du gouvernement d'une province;
- c) de tout autre organisme établi sous le régime d'une loi provinciale ou fédérale ayant des attributions relatives à l'évaluation des effets environnementaux d'un projet;
- d) de tout organisme, constitué aux termes d'un accord sur des revendications territoriales visé à l'article 35 de la *Loi constitutionnelle de 1982*, ayant des attributions relatives à l'évaluation des effets environnementaux d'un projet;

tion to an assessment of the environmental effects of a project;

(e) a government of a foreign state or of a subdivision of a foreign state, or any institution of such a government; and

(f) an international organization of states or any institution of such an organization.

Review panels  
established  
jointly with  
another  
jurisdiction

(2) Subject to section 41, where the referral of a project to a review panel is required or permitted by this Act and a jurisdiction referred to in paragraph (1)(a), (b), (c) or (d) has a responsibility or an authority to conduct an assessment of the environmental effects of the project or any part of it, the Minister

(a) may enter into an agreement or arrangement with that jurisdiction respecting the joint establishment of a review panel and the manner in which an assessment of the environmental effects of the project is to be conducted by the review panel; and

(b) shall, in the case of a jurisdiction within the meaning of subsection 12(5), offer to consult and cooperate with that other jurisdiction respecting the assessment of the environmental effects of the project.

Idem

(3) Subject to section 41, where the referral of a project to a review panel is required or permitted by this Act and a jurisdiction referred to in paragraph (1)(e) or (f) has a responsibility or an authority to conduct an assessment of the environmental effects of the project or any part of it, the Minister and the Secretary of State for External Affairs may enter into an agreement or arrangement with that jurisdiction respecting the joint establishment of a review panel and the manner in which an assessment of the environmental effects of the project is to be conducted by the review panel.

Publication of  
agreement for  
joint panel

(4) Any agreement or arrangement referred to in subsection (2) or (3) shall be published before the commencement of the hearings conducted by the review panel.

Conditions

**41.** An agreement or arrangement entered into pursuant to subsection 40(2) or (3) shall provide that the assessment of the environ-

e) du gouvernement d'un État étranger, d'une subdivision politique d'un État étranger ou de l'un de leurs organismes;

f) d'une organisation internationale d'États ou de l'un de ses organismes.

Examen  
conjoint

(2) Sous réserve de l'article 41, dans le cas où il estime qu'un examen par une commission est nécessaire ou possible et où une instance visée à l'un des alinéas (1)a), b), c) ou d) a la responsabilité ou le pouvoir d'entreprendre l'évaluation des effets environnementaux de tout ou partie du projet, le ministre :

a) peut conclure un accord avec l'instance visée pour l'organisation d'un examen conjointement avec celle-ci et pour déterminer les modalités d'examen des effets environnementaux du projet par la commission;

b) est tenu, dans le cas d'une instance, au sens du paragraphe 12(5), d'offrir de consulter et de coopérer avec celle-ci à l'égard de l'évaluation des effets environnementaux du projet.

Idem

(3) Sous réserve de l'article 41, dans le cas où ils estiment qu'un examen par une commission est nécessaire ou possible et où une instance visée à l'alinéa (1)e) ou f) a la responsabilité ou le pouvoir d'entreprendre l'évaluation des effets environnementaux de tout ou partie du projet, le ministre et le secrétaire d'État aux Affaires extérieures peuvent conclure un accord avec l'instance visée pour l'organisation d'un examen conjointement avec celle-ci et pour déterminer les modalités d'examen des effets environnementaux du projet par la commission.

Publicité

(4) Les accords visés au paragraphe (2) ou (3) sont publiés avant le début des audiences de la commission conjointe.

Conditions de  
l'examen  
conjoint

**41.** Tout accord conclu aux termes des paragraphes 40(2) ou (3) contient une disposition à l'effet que l'évaluation des effets

mental effects of the project shall include a consideration of the factors required to be considered under subsections 16(1) and (2) and be conducted in accordance with any additional requirements and procedures set out in the agreement and shall provide that

- (a) the Minister shall appoint or approve the appointment of the chairperson or appoint a co-chairperson, and shall appoint at least one other member of the panel;
- (b) the members of the panel are to be unbiased and free from any conflict of interest relative to the project and are to have knowledge or experience relevant to the anticipated environmental effects of the project;
- (c) the Minister shall fix or approve the terms of reference for the panel;
- (d) the review panel is to have the powers provided for in section 35;
- (e) the public will be given an opportunity to participate in the assessment conducted by the panel;
- (f) on completion of the assessment, the report of the panel will be submitted to the Minister; and
- (g) the panel's report will be published.

**42.** Where the Minister establishes a review panel jointly with a jurisdiction referred to in subsection 40(1), the assessment conducted by that panel shall be deemed to satisfy any requirements of this Act and the regulations respecting assessments by a review panel.

#### *Public Hearing by a Federal Authority*

**43.** (1) Where the referral of a project to a review panel is required or permitted by this Act and the Minister is of the opinion that a process for assessing the environmental effects of projects that is followed by a federal authority under an Act of Parliament other than this Act or by a body referred to in paragraph 40(1)(d) would be an appropriate substitute, the Minister may approve the substitution of that process for an environmental assessment by a review panel under this Act.

environnementaux du projet prend en compte les éléments prévus aux paragraphes 16(1) et (2) et est effectuée conformément aux exigences et modalités supplémentaires qui y sont contenues ainsi que les conditions suivantes :

- a) le ministre nomme le président, ou approuve sa nomination, ou nomme le coprésident et nomme au moins un autre membre de la commission;
- b) les membres de la commission sont impartiaux, non en conflit d'intérêts avec le projet et pourvus des connaissances et de l'expérience voulues touchant les effets environnementaux prévus du projet;
- c) le ministre fixe ou approuve le mandat de la commission;
- d) les pouvoirs prévus à l'article 35 sont conférés à la commission;
- e) le public aura la possibilité de participer à l'examen;
- f) dès l'achèvement de l'examen, la commission lui présentera un rapport;
- g) le rapport sera publié.

**42.** Dans le cas où le ministre organise un examen conjointement avec une instance visée au paragraphe 40(1), l'examen est réputé satisfaire aux exigences de la présente loi et des règlements en matière d'évaluation environnementale effectuée par une commission.

#### *Audience publique par une autorité fédérale*

**43.** (1) Dans le cas où la présente loi lui permet de demander un examen par une commission ou l'y oblige, et s'il estime que le processus d'évaluation des effets environnementaux suivi par une autorité fédérale sous le régime d'une autre loi fédérale ou par un organisme visé à l'alinéa 40(1)d) serait indiqué dans les circonstances, le ministre peut autoriser la substitution.

Examen réputé conforme

Substitution

Deemed substitution

Substitute for review panel



Manner of  
approval

(2) An approval of the Minister pursuant to subsection (1) shall be in writing and may be given in respect of a project or a class of projects.

(2) L'autorisation du ministre est donnée par écrit et peut viser un projet ou une catégorie de projets.

Modalités

Conditions

**44.** The Minister shall not approve a substitution pursuant to subsection 43(1) unless the Minister is satisfied that

- (a) the process to be substituted will include a consideration of the factors required to be considered under subsections 16(1) and (2);
- (b) the public will be given an opportunity to participate in the assessment;
- (c) at the end of the assessment, a report will be submitted to the Minister;
- (d) the report will be published; and
- (e) any criteria established pursuant to paragraph 58(1)(g) are met.

**44.** Le ministre ne peut autoriser la substitution que s'il est convaincu que les conditions suivantes sont réunies :

- a) l'évaluation à effectuer portera entre autres sur les éléments dont la prise en compte est exigée en vertu des paragraphes 16(1) et (2);
- b) le public aura la possibilité de participer au processus d'évaluation;
- c) dès l'achèvement de l'évaluation, un rapport lui sera présenté;
- d) le rapport sera publié;
- e) il a été satisfait aux critères fixés aux termes de l'alinéa 58(1)g).

Conditions

Deemed  
substitution

**45.** Where the Minister approves a substitution of a process pursuant to subsection 43(1), an assessment that is conducted in accordance with that process shall be deemed to satisfy any requirements of this Act and the regulations in respect of assessments by a review panel.

**45.** L'évaluation autorisée en application du paragraphe 43(1) est réputée satisfaire aux exigences de la présente loi et des règlements en matière d'évaluation environnementale effectuée par une commission.

Évaluation  
réputée  
conforme

#### TRANSBOUNDARY AND RELATED ENVIRONMENTAL EFFECTS

#### EFFETS HORS FRONTIÈRES ET EFFETS ENVIRONNEMENTAUX CONNEXES

Transboundary  
and related  
environmental  
effects

**46. (1)** Where no power, duty or function referred to in section 5 or conferred by or under any other Act of Parliament or regulation is to be exercised or performed by a federal authority in relation to a project that is to be carried out in a province and the Minister is of the opinion that the project may cause significant adverse environmental effects in another province, the Minister may refer the project to a mediator or a review panel in accordance with section 29 for an assessment of the environmental effects of the project in that other province.

**46. (1)** Le ministre peut, conformément à l'article 29, renvoyer à un médiateur ou à une commission l'examen des effets environnementaux d'un projet à l'égard duquel aucune des attributions visées à l'article 5 ou conférées sous le régime d'une autre loi fédérale ou d'un règlement ne doit être exercée par une autorité fédérale, s'il estime que le projet doit être mis en œuvre dans une province et peut causer des effets environnementaux négatifs importants dans une autre province.

Effets  
interprovin-  
ciaux

Agreement

(2) The Minister shall not refer a project to a mediator or a review panel pursuant to subsection (1) where the Minister and the governments of all interested provinces have agreed on another manner of conducting an assessment of the interprovincial environmental effects of the project that

(2) Le ministre ne peut effectuer le renvoi prévu au paragraphe (1) que si lui-même et les gouvernements des provinces concernées ne peuvent s'entendre sur des modalités de rechange de l'évaluation des effets environnementaux interprovinciaux du projet qui réunissent les conditions suivantes :

Entente  
interprovinciale

- (a) includes a consideration of the factors required to be considered under subsections 16(1) and (2);
- (b) includes an opportunity for the public to participate in the assessment;
- (c) includes a requirement that the report is to be submitted to the Minister at the end of the assessment;
- (d) includes a requirement that the report is to be published; and
- (e) meets any criteria established pursuant to paragraph 58(1)(h).

Initiative for reference

(3) The Minister shall consider whether to make a reference pursuant to subsection (1)

(a) on the request of the government of any interested province; or

(b) on the receipt of a petition that is

(i) signed by one or more persons each of whom has an interest in lands on which the project may cause significant adverse environmental effects, and

(ii) accompanied by a concise statement of the evidence supporting the contention of the petitioners that the project may cause significant adverse environmental effects in a province other than the one in which it is to be carried out.

Notice

(4) At least ten days before referring a project to a mediator or a review panel pursuant to subsection (1), the Minister shall give notice of the intention to do so to the proponent of the project, to the governments of all interested provinces and to any person who signed a petition considered by the Minister pursuant to subsection (3).

Meaning of "interested province"

(5) For the purposes of this section and sections 47, 48, 50 and 51, "interested province" means

(a) a province in which the project is to be carried out; or

(b) a province that claims that significant adverse environmental effects may occur in that province as a result of the project.

International environmental effects

47. (1) Where no power, duty or function referred to in section 5 or conferred by or under any other Act of Parliament or regulation is to be exercised or performed by a federal authority in relation to a project that

a) l'évaluation porte sur les éléments dont la prise en compte est exigée en vertu des paragraphes 16(1) et (2);

b) le public a la possibilité de participer au processus d'évaluation;

c) dès l'achèvement de l'évaluation, un rapport lui sera présenté;

d) le rapport sera publié;

e) l'évaluation satisfait aux critères établis aux termes de l'alinéa 58(1)h).

Initiative

(3) Le ministre est tenu d'examiner la possibilité d'effectuer le renvoi prévu au paragraphe (1) :

a) à la demande du gouvernement d'une province concernée;

b) sur réception d'une pétition signée par une ou plusieurs personnes qui ont chacune des droits sur des terres sur lesquelles le projet peut entraîner des effets environnementaux négatifs importants et accompagnée d'un bref exposé alléguant que la mise en œuvre du projet dans une province peut causer de tels effets dans une autre province.

Avis

(4) Avant d'effectuer le renvoi prévu au paragraphe (1), le ministre en donne un préavis d'au moins dix jours au promoteur du projet, à tous les gouvernements des provinces concernées et aux signataires de la pétition reçue aux termes du paragraphe (3).

Définition de « province concernée »

(5) Pour l'application du présent article et des articles 47, 48, 50 et 51, « province concernée » s'entend de la province où est mis en œuvre le projet et de celle qui prétend que le projet peut entraîner des effets environnementaux négatifs importants sur son territoire.

Effets internationaux

47. (1) Dans le cas où aucune des attributions visées à l'article 5 ou conférées sous le régime d'une autre loi fédérale ou d'un règlement ne doit être exercée par une autorité fédérale à l'égard d'un projet devant être mis

is to be carried out in Canada or on federal lands and the Minister is of the opinion that the project may cause significant adverse environmental effects occurring both outside Canada and outside those federal lands, the Minister and the Secretary of State for External Affairs may refer the project to a mediator or a review panel in accordance with section 29 for an assessment of the environmental effects of the project occurring both outside Canada and outside federal lands.

en œuvre au Canada ou sur le territoire domanial et où le ministre est d'avis que le projet peut entraîner des effets environnementaux négatifs importants à la fois à l'étranger et hors du territoire domanial, le ministre et le secrétaire d'État aux Affaires extérieures peuvent, conformément à l'article 29, renvoyer à un médiateur ou à une commission l'évaluation des effets environnementaux internationaux.

#### Agreement

(2) The Minister and the Secretary of State for External Affairs shall not refer a project to a mediator or a review panel pursuant to subsection (1) where the Minister and the governments of all interested provinces have agreed on another manner of conducting an assessment of the environmental effects of the project occurring both outside Canada and outside federal lands that

- (a) includes a consideration of the factors required to be considered under subsections 16(1) and (2);
- (b) includes an opportunity for the public to participate in the assessment;
- (c) includes a requirement that the report is to be submitted to the Minister at the end of the assessment;
- (d) includes a requirement that the report is to be published; and
- (e) meets any criteria established pursuant to paragraph 58(1)(h).

(2) Le ministre et le secrétaire d'État aux Affaires extérieures ne peuvent effectuer le renvoi prévu au paragraphe (1) que si le ministre et les gouvernements des provinces concernées ne peuvent s'entendre sur des modalités de rechange de l'évaluation des effets environnementaux du projet qui surviennent à la fois à l'étranger et hors du territoire domanial et que si ces modalités de rechange réunissent les conditions suivantes :

- a) elles portent sur les éléments dont la prise en compte est exigée en vertu des paragraphes 16(1) et (2);
- b) le public a la possibilité de participer au processus d'évaluation;
- c) dès son achèvement, un rapport sera présenté au ministre;
- d) le rapport sera publié;
- e) elles satisfont aux critères fixés aux termes de l'alinéa 58(1)h).

#### Défaut d'entente

#### Initiative for reference

(3) On a request to the Minister to refer a project to a mediator or a review panel pursuant to subsection (1) made by

- (a) the government of any province in which the project is to be carried out or that is adjacent to federal lands on which the project is to be carried out, or
- (b) the government of a foreign state or a subdivision thereof that claims that significant adverse environmental effects may occur in that foreign state or subdivision thereof as a result of the project,

the Minister and the Secretary of State for External Affairs shall consider whether to make a reference pursuant to subsection (1).

(3) Le ministre et le secrétaire d'État aux Affaires extérieures sont tenus d'examiner la possibilité d'effectuer le renvoi prévu au paragraphe (1) sur réception par le ministre d'une demande présentée soit par le gouvernement d'une province où doit être mis en œuvre le projet ou dont le territoire est contigu au territoire domanial sur lequel le projet doit être mis en œuvre, soit par le gouvernement d'un État étranger ou d'une subdivision politique d'un État étranger qui allègue que le projet peut entraîner des effets environnementaux négatifs importants sur son territoire.

#### Demande



Notice

(4) At least ten days before making a reference pursuant to subsection (1), the Minister shall give notice of the intention to do so to

- (a) the proponent of the project;
- (b) the government of any province in which the project is to be carried out or that is adjacent to federal lands on which the project is to be carried out; and
- (c) the government of any foreign state or a subdivision thereof in which, in the opinion of the Minister, significant adverse environmental effects may occur as a result of the project.

48. (1) Where no power, duty or function referred to in section 5 or conferred by or under any other Act of Parliament or regulation is to be exercised or performed by a federal authority in relation to a project that is to be carried out in Canada and the Minister is of the opinion that the project may cause significant adverse environmental effects on

- (a) lands in a reserve that is set apart for the use and benefit of a band and that is subject to the *Indian Act*,
- (b) federal lands other than those mentioned in paragraph (a),
- (c) lands that are described in a land claims agreement referred to in section 35 of the *Constitution Act, 1982* and that are prescribed,
- (d) lands that have been set aside for the use and benefit of Indians pursuant to legislation that relates to the self-government of Indians and that are prescribed, or
- (e) lands in respect of which Indians have interests,

the Minister may refer the project to a mediator or a review panel in accordance with section 29 for an assessment of the environmental effects of the project on those lands.

(2) Where no power, duty or function referred to in section 5 or conferred by or under any other Act of Parliament or regulation is to be exercised or performed by a

(4) Avant d'effectuer le renvoi prévu au paragraphe (1), le ministre en donne un préavis d'au moins dix jours :

- a) au promoteur du projet;
- b) au gouvernement de la province où est mis en œuvre le projet ou dont le territoire est contigu au territoire domanial sur lequel le projet est mis en œuvre;
- c) au gouvernement de l'État étranger à l'égard duquel, ou à la subdivision politique du gouvernement d'un État étranger à l'égard de laquelle, selon le ministre, le projet peut entraîner des effets environnementaux négatifs importants sur son territoire.

48. (1) Le ministre peut renvoyer à un médiateur ou à une commission l'examen des effets environnementaux d'un projet à l'égard duquel aucune attribution visée à l'article 5 ou conférée sous le régime d'une autre loi fédérale ou d'un règlement ne doit être exercée par une autorité fédérale, si le projet doit être mis en œuvre au Canada et, à son avis, est susceptible d'entraîner des effets environnementaux négatifs importants sur :

- a) des terres d'une réserve mise de côté à l'usage et au profit d'une bande et assujettie à la *Loi sur les Indiens*;
- b) le territoire domanial, à l'exception des terres visées à l'alinéa a);
- c) des terres visées dans un accord de revendications territoriales visé à l'article 35 de la *Loi constitutionnelle de 1982* et désignées par règlement;
- d) des terres, désignées par règlement, mises de côté à l'usage et au profit des Indiens conformément à une loi relative à l'autonomie gouvernementale des Indiens;
- e) des terres sur lesquelles les Indiens ont des droits.

(2) S'il est d'avis qu'un projet, à l'égard duquel aucune attribution visée à l'article 5 ou conférée sous le régime d'une autre loi fédérale ou d'un règlement ne doit être exer-

Préavis

Territoire  
domanial et  
autreEffets sur les  
terres d'une  
réserve et  
autresEnvironmental  
effects on lands  
of federal  
interest

Idem

federal authority in relation to a project that is to be carried out on

(a) lands in a reserve that is set apart for the use and benefit of a band and that is subject to the *Indian Act*,

(b) lands that are described in a land claims agreement referred to in section 35 of the *Constitution Act, 1982* and that are prescribed, or

(c) lands that have been set aside for the use and benefit of Indians pursuant to legislation that relates to the self-government of Indians and that are prescribed,

and the Minister is of the opinion that the project may cause significant adverse environmental effects outside those lands, the Minister may refer the project to a mediator or a review panel in accordance with section 29 for an assessment of the environmental effects of the project outside those lands.

Agreement

(3) The Minister shall not refer a project to a mediator or a review panel pursuant to subsection (1) or (2) where the Minister and the governments of all interested provinces, and

(a) in respect of federal lands referred to in paragraph (1)(b), the federal authority having the administration of those lands,

(b) in respect of lands referred to in paragraph (1)(a) or (2)(a), the council of the band for whose use and benefit the reserve has been set apart,

(c) in respect of lands referred to in paragraph (1)(c) or (e) or (2)(b), the party to the agreement or claim representing the aboriginal people or that party's successor, or

(d) in respect of lands that have been set aside for the use and benefit of Indians pursuant to legislation referred to in paragraph (1)(d) or (2)(c), the governing body established by that legislation,

have agreed on another manner of conducting an assessment of the environmental effects of the project on or outside those lands, as the case may be.

Initiative for  
reference

(4) The Minister shall consider whether to make a reference pursuant to subsection (1) or (2)

cée par une autorité fédérale, qui doit être mis en œuvre sur les terres énumérées ci-après est susceptible d'entraîner des effets environnementaux négatifs importants à l'extérieur de ces terres, le ministre peut, conformément à l'article 29, renvoyer à un médiateur ou à une commission l'examen de ces effets :

a) terres d'une réserve mise de côté à l'usage et au profit d'une bande et assujettie à la *Loi sur les Indiens*;

b) terres visées dans un accord de revendications territoriales visé à l'article 35 de la *Loi constitutionnelle de 1982* et désignées par règlement;

c) terres, désignées par règlement, qui ont été mises de côté à l'usage et au profit des Indiens conformément à une loi relative à l'autonomie gouvernementale des Indiens.

(3) Le ministre ne peut effectuer le renvoi prévu aux paragraphes (1) ou (2) que si lui-même et les gouvernements des provinces concernées ainsi que les organismes énumérés ci-après ne peuvent s'entendre sur les modalités de rechange de l'évaluation des effets environnementaux négatifs importants du projet sur ces terres ou à l'extérieur de celles-ci :

a) à l'égard du territoire domanial visé à l'alinéa (1)b), l'autorité fédérale qui est chargée de sa gestion;

b) à l'égard des terres visées aux alinéas (1)a) ou (2)a), le conseil de la bande à l'usage et au profit de laquelle la réserve a été mise de côté;

c) à l'égard de terres visées aux alinéas (1)c) ou e) ou (2)b), la partie à l'accord ou à la revendication qui représente le peuple autochtone;

d) à l'égard des terres qui ont été mises de côté à l'usage et au profit des Indiens conformément à une loi visée aux alinéas (1)d) ou (2)c), l'organisme dirigeant constitué par cette loi.

Défaut  
d'entente

(4) Le ministre est tenu d'examiner la possibilité d'effectuer le renvoi prévu aux paragraphes (1) ou (2) :

Demande

- (a) on the request of the government of any interested province or the federal authority having the administration of federal lands referred to in paragraph (1)(b); or  
(b) on receipt of a petition that is

- (i) signed by one or more persons each of whom has an interest in lands on which the project may cause significant adverse environmental effects, and  
(ii) accompanied by a concise statement of the evidence supporting the contention of the petitioner that the project may cause significant adverse environmental effects in respect of which a reference may be made pursuant to subsection (1) or (2).

Notice

(5) At least ten days before a reference is made pursuant to subsection (1) or (2), the Minister shall give notice of the intention to do so to

- (a) the proponent of the project;  
(b) the governments of all interested provinces;  
(c) any person who signed a petition considered by the Minister pursuant to subsection (4); and  
(d) the federal authority, in the case of a reference to be made pursuant to paragraph (1)(b).

Meaning of  
"lands in  
respect of  
which Indians  
have interests"

(6) For the purposes of this section, "lands in respect of which Indians have interests" means

(a) land areas that are subject to a land claim accepted by the Government of Canada for negotiation under its comprehensive land claims policy and that

- (i) in the case of land areas situated in the Yukon Territory or the Northwest Territories, have been withdrawn from disposal under the *Territorial Lands Act* for the purposes of land claim settlement, or  
(ii) in the case of land areas situated in a province, have been agreed on for selection by the Government of Canada and the government of the province; and  
(b) land areas that belong to Her Majesty or in respect of which Her Majesty has the

a) à la demande du gouvernement d'une province concernée ou de l'autorité fédérale chargée de la gestion du territoire domanial visé à l'alinéa (1)b);

b) sur réception d'une pétition :

- (i) signée par une ou plusieurs personnes qui ont chacune des droits sur des terres où le projet peut entraîner des effets environnementaux négatifs importants,  
(ii) accompagnée d'un bref exposé alléguant que la mise en œuvre du projet dans une province peut causer de tels effets, à l'égard desquels un renvoi peut être effectué aux termes des paragraphes (1) ou (2).

Préavis

(5) Avant d'effectuer le renvoi prévu aux paragraphes (1) ou (2), le ministre en donne un préavis d'au moins dix jours :

- a) au promoteur du projet;  
b) aux gouvernements des provinces concernées;  
c) aux signataires d'une pétition examinée par le ministre aux termes du paragraphe (4);  
d) à l'autorité fédérale, dans le cas du renvoi qui doit être effectué aux termes de l'alinéa (1)b).

(6) Pour l'application du présent article, les terres sur lesquelles les Indiens ont des droits s'entendent :

Terres sur  
lesquelles les  
Indiens ont des  
droits

a) des terres visées par des revendications territoriales que le gouvernement fédéral a accepté de négocier dans le cadre de sa politique en matière de revendications territoriales des Indiens et :

- (i) dans le cas du territoire du Yukon ou des Territoires du Nord-Ouest, celles qui ont été soustraites à l'application de la *Loi sur les terres territoriales* pour les fins d'un règlement en matière de revendications territoriales,  
(ii) dans le cas des provinces, celles qui ont été choisies par le gouvernement fédéral et celui de la province concernée;  
b) des terres qui appartiennent à Sa Majesté ou qu'elle a le droit de céder et



right to dispose and that have been identified and agreed on by Her Majesty and an Indian band for transfer to settle claims based on

- (i) an outstanding lawful obligation of Her Majesty towards an Indian band pursuant to the specific claims policy of the Government of Canada, or
- (ii) treaty land entitlement.

qui ont été choisies par elle et une bande indienne pour cession en vue d'un règlement des revendications territoriales fondées :

- (i) sur une obligation légale de Sa Majesté envers une bande indienne aux termes de la politique du gouvernement fédéral en matière de revendications particulières,
- (ii) sur les droits fonciers découlant d'un traité.

Reference to  
lands, etc.

(7) For the purposes of this section, a reference to any lands, land areas or reserves includes a reference to all waters on and air above those lands, areas or reserves.

(7) Pour l'application du présent article, toute mention des terres, territoires ou réserves comprend leurs eaux et leur espace aérien.

Règle  
d'application

Rules governing  
review panels

49. Sections 29 to 36 and 40 to 42 apply, with such modifications as the circumstances require, in respect of a reference to a mediator or a review panel pursuant to subsection 46(1), 47(1) or 48(1) or (2).

49. Les articles 29 à 36 et 40 à 42 s'appliquent, avec les adaptations nécessaires, aux renvois à une médiation ou à une commission d'examen visés aux paragraphes 46(1), 47(1) ou 48(1) ou (2).

Règles  
applicables aux  
commissions

Ministerial  
orders

50. (1) Where the Minister refers a project to a mediator or a review panel for an assessment of the environmental effects of the project referred to in subsection 46(1), 47(1) or 48(1) or (2), the Minister may, by order, prohibit the proponent of the project from doing any act or thing that would commit the proponent to ensuring that the project is carried out in whole or in part until the assessment is completed and the Minister is satisfied that, taking into account the implementation of any appropriate mitigation measures the project is not likely to cause any significant adverse environmental effects referred to in that subsection or that any such effects are justified in the circumstances.

50. (1) Dans le cas où il effectue le renvoi à un médiateur ou à une commission aux termes des paragraphes 46(1), 47(1) ou 48(1) ou (2), le ministre peut, par arrêté, interdire au promoteur d'accomplir tout acte permettant la mise en œuvre du projet en tout ou en partie jusqu'à ce que l'examen soit terminé et qu'il soit convaincu que, compte tenu de la mise en œuvre des mesures d'atténuation indiquées, la réalisation du projet n'est pas susceptible d'entraîner les effets environnementaux négatifs importants visés à ces articles ou qu'ils sont justifiables dans les circonstances.

Suspension du  
projet

Idem

(2) Where a project is referred to a mediator or a review panel for an assessment of the environmental effects of the project referred to in subsection 46(1), 47(1) or 48(1) or (2) and the mediator or review panel submits a report to the Minister indicating that the project is likely to cause significant adverse environmental effects referred to in that subsection the Minister may, by order, prohibit the proponent of the project from doing any act or thing that would commit the proponent to ensuring that the project is carried

(2) Dans le cas où le médiateur ou la commission en vient à la conclusion dans son rapport au ministre que la mise en œuvre du projet visé aux paragraphes 46(1), 47(1) ou 48(1) ou (2) est susceptible d'entraîner des effets environnementaux négatifs importants, le ministre peut, par arrêté, interdire au promoteur d'accomplir tout acte permettant la mise en œuvre du projet en tout ou en partie jusqu'à ce qu'il soit convaincu que, compte tenu de l'application des mesures d'atténuation indiquées, la réalisation du projet n'est

Idem

out in whole or in part until the Minister is satisfied that, taking into account the implementation of any appropriate mitigation measures, the project is not likely to cause any significant adverse environmental effects referred to in that subsection or that any such effects are justified in the circumstances.

Consultation  
with interested  
jurisdictions

(3) The Minister shall, before exercising discretion to make an order under subsection (1) or (2), advise and offer to consult with the governments of all interested provinces and any federal authority, or the band council, party to the agreement or claim or governing body having an interest in the lands where the project is to be carried out, as the case may be.

Injunction

**51.** (1) Where, on the application of the Attorney General of Canada, it appears to a court of competent jurisdiction that an order made under section 50 in respect of a project has been, is about to be or is likely to be contravened, the court may issue an injunction ordering any person named in the application to refrain from doing any act or thing that would commit the proponent to ensuring that the project or any part thereof is carried out until

(a) with respect to an order made pursuant to subsection 50(1), the assessment of the environmental effects of the project referred to in subsection 46(1), 47(1) or 48(1) or (2) is completed and the Minister is satisfied that, taking into account the implementation of any appropriate mitigation measures, the project is not likely to cause any significant adverse environmental effects referred to in that subsection or any such effects are justified in the circumstances; and

(b) with respect to an order made pursuant to subsection 50(2), the Minister is satisfied that, taking into account the implementation of any appropriate mitigation measures, the project is not likely to cause any significant adverse environmental effects referred to in that subsection or any such effects are justified in the circumstances.

pas susceptible d'entraîner les effets environnementaux importants visés à ces articles ou qu'ils sont justifiables dans les circonstances.

Consultation

(3) Avant de prendre sa décision aux termes des paragraphes (1) ou (2), le ministre avise et offre de consulter, selon le cas, les gouvernements des provinces concernées, ou le conseil de bande, la partie à l'entente ou à la revendication ou l'organisme dirigeant qui a des droits dans les terres où le projet doit être mis en œuvre.

Injunction

**51.** (1) Si, sur demande présentée par le procureur général du Canada, il conclut à l'inobservation — réelle ou appréhendée — de l'arrêté pris en application de l'article 50, le tribunal compétent peut, par ordonnance, interdire à toute personne visée par la demande d'accomplir tout acte permettant la mise en œuvre du projet en tout ou en partie jusqu'à ce que :

a) dans le cas d'un arrêté pris en vertu du paragraphe 50(1), l'examen par une commission soit terminé et que le ministre soit convaincu que, compte tenu de l'application des mesures d'atténuation indiquées, la réalisation du projet n'est pas susceptible d'entraîner les effets environnementaux négatifs importants visés aux paragraphes 46(1), 47(1) ou 48(1) ou (2) ou qu'ils sont justifiables dans les circonstances;

b) dans le cas d'un arrêté pris en vertu du paragraphe 50(2), le ministre soit convaincu que, compte tenu de l'application des mesures d'atténuation indiquées, la réalisation du projet n'est pas susceptible d'entraîner les effets environnementaux négatifs importants visés à ces articles ou qu'ils sont justifiables dans les circonstances.

## Notice

(2) At least forty-eight hours before an injunction is issued under subsection (1), notice of the application shall be given to

- (a) persons named in the application, and
- (b) the governments of all interested provinces and any federal authority, band council, party to the agreement or claim or governing body having an interest in the lands where the project is to be carried out, as the case may be,

unless the urgency of the situation is such that the delay involved in giving such notice would not be in the public interest.

## Order in force

52. (1) An order under section 50 comes into force at the time it is made.

## Approval of Governor in Council

(2) The order ceases to have effect four-teen days after it is made unless, within that period, it is approved by the Governor in Council.

## Exemption from application of Statutory Instruments Act

(3) The order is exempt from the application of sections 3, 5 and 11 of the *Statutory Instruments Act* and shall be published in the *Canada Gazette* within twenty-three days after it is approved by the Governor in Council.

## Follow-up program

53. (1) Where the Minister has referred a project to a mediator or a review panel pursuant to subsection 46(1), 47(1) or 48(1) or (2), the Minister shall, in accordance with any regulations made for that purpose, design or approve any follow-up program that the Minister considers appropriate for the project and arrange for the implementation of that program.

## Public notice

(2) Following the receipt of the report of the mediator or review panel in respect of the assessment of the environmental effects of the project referred to in subsection 46(1), 47(1) or 48(1) or (2), the Minister shall, in accordance with any regulations made for that purpose, advise the public of

- (a) any order or injunction issued under section 50 or 51 in respect of the project;
- (b) any mitigation measures to be implemented with respect to the adverse environmental effects of the project referred to in those subsections;

(2) Sauf lorsque cela serait contraire à l'intérêt public en raison de l'urgence de la situation, l'injonction est subordonnée à la signification d'un préavis d'au moins quarante-huit heures :

- a) aux parties nommées dans la demande;
- b) aux gouvernements des provinces concernées et, selon le cas, à l'autorité fédérale, au conseil de bande, à la partie à l'entente ou à la revendication ou à l'organisme dirigeant qui ont des droits dans les terres où le projet doit être mis en œuvre.

52. (1) L'arrêté pris en application de l'article 50 prend effet dès sa prise.

(2) L'arrêté devient inopérant à défaut d'approbation du gouverneur en conseil dans les quatorze jours suivant sa prise.

(3) L'arrêté est soustrait à l'application des articles 3, 5 et 11 de la *Loi sur les textes réglementaires* et publié dans la *Gazette du Canada* dans les vingt-trois jours suivant son approbation.

53. (1) Dans les cas où il a effectué le renvoi à un médiateur ou à une commission prévu aux paragraphes 46(1), 47(1) ou 48(1) ou (2), le ministre élabore ou approuve, conformément aux règlements pris à cette fin, tout programme de suivi qu'il estime indiqué pour le projet et veille à la mise en œuvre du programme.

(2) Sur réception du rapport du médiateur ou de la commission concernant les évaluations environnementales visées aux paragraphes 46(1), 47(1) ou 48(1) ou (2), le ministre porte à la connaissance du public, conformément aux règlements pris à cette fin :

- a) tout arrêté pris aux termes de l'article 50 ou toute injonction prononcée aux termes de l'article 51;
- b) les mesures d'atténuation éventuelles des effets environnementaux négatifs d'un projet visé à ces paragraphes;

## Préavis

## Prise d'effet de l'arrêté

## Approbation du gouverneur en conseil

## Dérogation à la Loi sur les textes réglementaires

## Programme de suivi

## Publicité



(c) the extent to which the recommendations set out in the report have been adopted, and the reasons for not having adopted any of those recommendations;

(d) any follow-up program that is designed or approved for the project pursuant to subsection (1); and

(e) any results of any follow-up program.

#### AGREEMENTS AND ARRANGEMENTS

Provincial  
agreement or  
arrangement

**54.** (1) Subject to subsection (3), where a federal authority or the Government of Canada on behalf of a federal authority enters into an agreement or arrangement with the government of a province or any institution of such a government under which a federal authority exercises a power or performs a duty or function referred to in paragraph 5(1)(b) in relation to projects the essential details of which are not specified, the Government of Canada or the federal authority shall ensure that the agreement or arrangement provides for the assessment of the environmental effects of those projects and that the assessment will be carried out as early as practicable in the planning stages of those projects, before irrevocable decisions are made, in accordance with

(a) this Act and the regulations; or

(b) a process for the assessment of the environmental effects of projects that is consistent with the requirements of this Act and is in effect in the province where the projects are to be carried out.

(2) Subject to subsection (3), where a federal authority or the Government of Canada on behalf of a federal authority enters into an agreement or arrangement with any government or any person, organization or institution, whether or not part of or affiliated with a government, under which a federal authority exercises a power or performs a duty or function referred to in paragraph 5(1)(b) in relation to projects the essential details of which are not specified and that are to be carried out both outside Canada and outside federal lands, the Government of Canada or the federal authority shall ensure, in so far as is practicable and

c) la suite donnée aux recommandations issues du rapport et les motifs du rejet éventuel d'une de celles-ci;

d) le programme de suivi élaboré ou approuvé aux termes du paragraphe (1);

e) les résultats du programme de suivi.

#### ACCORDS SIGNÉS PAR LES AUTORITÉS FÉDÉRALES

**54.** (1) Sous réserve du paragraphe (3), le gouvernement du Canada ou toute autorité fédérale veille à ce que les accords que l'autorité fédérale conclut — ou que le gouvernement conclut en son nom — avec le gouvernement d'une province ou avec l'un de ses organismes, en vertu desquels une autorité fédérale exerce une attribution visée à l'alinéa 5(1)b) au titre de projets dont les éléments essentiels ne sont pas déterminés, prévoient l'évaluation des effets environnementaux des projets, cette évaluation devant être effectuée le plus tôt possible au stade de leur planification, avant la prise d'une décision irrévocable conformément à la présente loi et aux règlements ou au processus, compatible avec la présente loi, d'évaluation des effets environnementaux de projets applicable dans la province où ceux-ci doivent être mis en œuvre.

Accords avec  
les provinces

(2) Sous réserve du paragraphe (3), le gouvernement du Canada ou toute autorité fédérale veille à ce que les accords que l'autorité fédérale conclut — ou que le gouvernement conclut en son nom — avec soit un gouvernement, soit une personne, un organisme ou une institution, peu importe qu'ils soient ou non affiliés à un gouvernement ou en fassent partie, en vertu desquels une autorité fédérale exerce une attribution visée à l'alinéa 5(1)b) au titre de projets dont les éléments essentiels ne sont pas déterminés qui doivent être mis en œuvre à la fois à l'étranger et hors du territoire domaniale, prévoient, dans la mesure du possible, tout en

Accords  
internationaux

International  
agreement or  
arrangement

subject to any other such agreement to which the Government of Canada or federal authority is a party, that the agreement or arrangement provides for the assessment of the environmental effects of those projects and that the assessment will be carried out as early as practicable in the planning stages of those projects, before irrevocable decisions are made, in accordance with

- (a) this Act and the regulations; or
- (b) a process for the assessment of the environmental effects of projects that is consistent with the requirements of this Act and is in effect in the foreign state where the projects are to be carried out.

Exception

(3) Subsection (1) or (2) does not apply in respect of an agreement or arrangement referred to in that subsection where the federal authority will be required to exercise a power or perform a duty or function referred to in paragraph 5(1)(b) in relation to the projects in respect of which the agreement or arrangement applies after the essential details of the projects are specified.

étant compatibles avec les accords internationaux dont le Canada est déjà signataire à leur entrée en vigueur, l'évaluation des effets environnementaux des projets, cette évaluation devant être effectuée le plus tôt possible au stade de leur planification, avant la prise d'une décision irrévocable, conformément à la présente loi et aux règlements ou au processus, compatible avec la présente loi, d'évaluation des effets environnementaux de projets applicable dans l'État étranger où ceux-ci doivent être mis en œuvre.

Exception

(3) Les paragraphes (1) ou (2) ne s'appliquent pas à un accord visé à ces paragraphes dans les cas où une autorité fédérale est tenue d'exercer une attribution visée à l'alinéa 5(1)b) relativement aux projets qui font l'objet de l'accord après la détermination des éléments essentiels de ceux-ci.

#### ACCESS TO INFORMATION

Public registry

**55.** (1) For the purpose of facilitating public access to records relating to environmental assessments, a public registry shall be established and operated in a manner to ensure convenient public access to the registry and in accordance with this Act and the regulations in respect of every project for which an environmental assessment is conducted.

Public registry established

(2) The public registry in respect of a project shall be maintained

- (a) by the responsible authority from the commencement of the environmental assessment until any follow-up program in respect of the project is completed; and
- (b) where the project is referred to a mediator or a review panel, by the Agency from the appointment of the mediator or the members of the review panel until the report of the mediator or review panel is submitted to the Minister.

Contents of public registry

(3) Subject to subsection (4), a public registry shall contain all records produced,

#### ACCÈS À L'INFORMATION

**55.** (1) Est tenu, conformément à la présente loi et aux règlements, un registre public pour chacun des projets pour lesquels une évaluation environnementale est effectuée afin de faciliter l'accès aux documents relatifs à cette évaluation.

Registre public

(2) Le registre public est tenu :

- a) par l'autorité responsable dès le début de l'évaluation environnementale et jusqu'à ce que le programme de suivi soit terminé;
- b) par l'Agence, dans les cas où une médiation ou un examen par une commission est effectuée, dès la nomination du médiateur ou des membres de la commission jusqu'au moment de la remise du rapport au ministre.

Établissement du registre

(3) Sous réserve du paragraphe (4), le registre public contient tous les documents

Contenu du registre

collected, or submitted with respect to the environmental assessment of the project, including

- (a) any report relating to the assessment;
- (b) any comments filed by the public in relation to the assessment;
- (c) any records prepared by the responsible authority for the purposes of section 38;
- (d) any records produced as the result of the implementation of any follow-up program;
- (e) any terms of reference for a mediation or a panel review; and
- (f) any documents requiring mitigation measures to be implemented.

produits, recueillis ou reçus relativement à l'évaluation environnementale d'un projet, notamment :

- a) tout rapport relatif à l'évaluation environnementale du projet;
- b) tout commentaire donné par le public relativement à l'évaluation;
- c) tous les documents que l'autorité responsable a préparés pour l'application de l'article 38;
- d) tous les documents produits par l'application d'un programme de suivi;
- e) le mandat du médiateur ou d'une commission;
- f) tous les documents exigeant l'application de mesures d'atténuation.

Categories of  
information to  
be made  
publicly  
available

(4) A public registry shall contain a record referred to in subsection (3) if the record falls within one of the following categories:

- (a) records that have otherwise been made available to the public in carrying out the assessment pursuant to this Act and any additional records that have otherwise been made publicly available;
- (b) any record or part of a record that the responsible authority, in the case of a record under its control, or the Minister, in the case of a record under the Agency's control, determines would have been disclosed to the public in accordance with the *Access to Information Act* if a request had been made in respect of that record under that Act at the time the record comes under its control, including any record that would be disclosed in the public interest pursuant to subsection 20(6) of that Act; and
- (c) any record or part of a record, except a record or part containing third party information, if the responsible authority, in the case of a record under the responsible authority's control, or the Minister, in the case of a record under the Agency's control, believes on reasonable grounds that its disclosure would be in the public interest because it is required in order for the public to participate effectively in the assessment.

(4) Le registre public permet l'accès aux documents visés au paragraphe (3) si ceux-ci appartiennent à l'une des catégories suivantes :

- a) documents qui sont mis à la disposition du public dans le registre conformément à la présente loi ainsi que tout autre document qui a déjà été rendu public;
- b) tout ou partie d'un document qui, de l'avis de l'autorité responsable, dans le cas d'un document qu'elle contrôle, ou de l'avis du ministre dans le cas d'un document que l'Agence contrôle, serait communiqué conformément à la *Loi sur l'accès à l'information* si une demande en ce sens était faite aux termes de celle-ci au moment où l'Agence prend le contrôle du document, y compris tout document qui serait communiqué dans l'intérêt public aux termes du paragraphe 20(6) de cette loi;
- c) tout ou partie d'un document, à l'exception d'un document contenant des renseignements relatifs à un tiers, si l'autorité responsable, dans le cas d'un document qu'elle contrôle ou le ministre, dans le cas d'un document que l'Agence contrôle, a des motifs raisonnables de croire qu'il serait d'intérêt public de le communiquer parce qu'il est nécessaire à une participation efficace du public à l'évaluation environnementale.

Genre  
d'information  
disponible



Third party  
information

(5) Sections 27, 28 and 44 of the *Access to Information Act* apply, with such modifications as the circumstances require, to any determination made under paragraph (4)(b) in respect of third party information, and, for the purpose of section 27 of that Act, any record referred to in paragraph (4)(b) shall be deemed to be a record that the responsible authority or the Minister intends to disclose and, for the purpose of applying that Act, any reference in that Act to the person who requested access shall be disregarded if no person has requested access to the information.

Protection from  
civil proceeding  
or prosecution

(6) Notwithstanding any other Act of Parliament, no civil or criminal proceedings lie against a responsible authority or the Minister, or against any person acting on behalf of or under the direction of a responsible authority or the Minister, and no proceedings lie against the Crown or any responsible authority for the disclosure in good faith of any record or any part of a record pursuant to this Act, for any consequences that flow from that disclosure, or for the failure to give any notice required under section 27 or any other provision of the *Access to Information Act* if reasonable care is taken to give the required notice.

Meaning of  
"third party  
information"

(7) For the purposes of this section, "third party information" means

- (a) trade secrets of a third party;
- (b) financial, commercial, scientific or technical information that is confidential information supplied to a government institution by a third party and is treated consistently in a confidential manner by the third party;
- (c) information the disclosure of which could reasonably be expected to result in material financial loss or gain to, or could reasonably be expected to prejudice the competitive position of, a third party; and
- (d) information the disclosure of which could reasonably be expected to interfere with contractual or other negotiations of a third party.

(5) Les articles 27, 28 et 44 de la *Loi sur l'accès à l'information* s'appliquent, avec les adaptations nécessaires, à toute détermination faite aux termes de l'alinéa (4)b) à l'égard de renseignements relatifs à un tiers, et tout document visé à cet alinéa est réputé, pour l'application de l'article 27 de cette loi, constituer un document que le ministre ou l'autorité responsable a l'intention de communiquer; pour l'application de cette loi, il ne doit pas être tenu compte de la mention de la personne qui a demandé la communication des renseignements si nul ne l'a demandée.

Renseignements relatifs à un tiers

(6) Malgré toute autre loi fédérale, l'autorité responsable ou le ministre et les personnes qui agissent en leur nom ou sous leur autorité bénéficient de l'immunité en matière civile ou pénale, et la Couronne ainsi que les autorités responsables bénéficient de l'immunité devant toute juridiction, pour la communication totale ou partielle d'un document faite de bonne foi dans le cadre de la présente loi ainsi que pour les conséquences qui en découlent; ils bénéficient également de l'immunité dans les cas où, ayant fait preuve de la diligence nécessaire, ils n'ont pu donner les avis prévus à l'article 27 ou à toute autre disposition de la *Loi sur l'accès à l'information*.

Immunité

(7) Au présent article, « renseignements relatifs à un tiers » s'entend des renseignements suivants :

Définition de « renseignements relatifs à un tiers »

- a) secrets industriels de tiers;
- b) renseignements financiers, commerciaux, scientifiques ou techniques fournis à une institution fédérale par un tiers, qui sont de nature confidentielle et qui sont traités comme tels de façon constante par ce tiers;
- c) renseignements dont la divulgation risquerait vraisemblablement de causer des pertes ou profits financiers appréciables à un tiers ou de nuire à sa compétitivité;
- d) renseignements dont la divulgation risquerait vraisemblablement d'entraver des négociations menées par un tiers en vue de contrats ou à d'autres fins.

## STATISTICAL SUMMARY

Preparation of  
statistical  
summary

56. (1) During each fiscal year a responsible authority shall maintain a statistical summary of all of the environmental assessments undertaken or directed by it and all courses of action taken, and all decisions made, in relation to the environmental effects of the projects after the assessments were completed.

Idem

(2) The responsible authority shall ensure that the summary for a fiscal year is completed within one month after the end of that fiscal year.

## JUDICIAL REVIEW

Defect in form  
or technical  
irregularity

57. An application for judicial review in connection with any matter under this Act shall be refused where the sole ground for relief established on the application is a defect in form or a technical irregularity.

## ADMINISTRATION

*Minister's Powers*

Powers to  
facilitate  
environmental  
assessments

58. (1) For the purposes of this Act, the Minister may

(a) issue guidelines and codes of practice respecting the application of this Act and the regulations and, without limiting the generality of the foregoing, establish criteria to determine whether a project, taking into account the implementation of any appropriate mitigation measures, is likely to cause significant adverse environmental effects or whether such effects are justified in the circumstances;

(b) establish research and advisory bodies;

(c) enter into agreements or arrangements with any jurisdiction within the meaning of paragraph 40(1)(a), (b), (c) or (d) respecting assessments of environmental effects;

(d) enter into agreements or arrangements with any jurisdiction, within the meaning of subsection 40(1), for the purposes of coordination, consultation, exchange of information and the determination of factors to be considered in relation to the assessment of the environmental effects of projects of common interest;

## RÉSUMÉS STATISTIQUES

Résumés  
statistiques

56. (1) L'autorité responsable prépare pour chaque exercice un résumé statistique de toutes les évaluations environnementales effectuées par elle ou sous son autorité ainsi que de toutes les décisions prises à l'égard des effets environnementaux causés par les projets une fois terminées les évaluations.

Idem

(2) L'autorité responsable veille à ce que le résumé applicable à un exercice soit prêt au plus tard un mois après la fin de l'exercice.

## CONTRÔLE JUDICIAIRE

Vice de forme

57. Il n'est admise aucune demande de contrôle judiciaire liée à la présente loi et fondée uniquement sur un vice de forme ou une irrégularité technique.

## ADMINISTRATION

*Pouvoirs du ministre*

Évaluation  
environnementale

58. (1) Pour l'application de la présente loi, le ministre peut :

a) donner des lignes directrices et établir des codes de pratique ou de procédure d'application de la présente loi et des règlements, y compris, établir des critères servant à déterminer si, compte tenu de l'application de mesures d'atténuation indiquées, est susceptible d'entraîner des effets environnementaux négatifs importants ou si ces effets sont justifiables dans les circonstances;

b) constituer des organismes consultatifs et de recherche;

c) conclure des accords avec toute instance au sens des alinéas 40(1)a), b), c) ou d) en matière d'évaluation des effets environnementaux;

d) conclure des accords avec toute instance, au sens du paragraphe 40(1), en matière de coordination, de consultation, d'échange d'information et de détermination des facteurs à considérer relativement à l'évaluation des effets environnementaux de projets d'intérêt commun;



(e) recommend the appointment of members to bodies established by federal authorities or to bodies referred to in paragraph 40(1)(d), on a temporary basis, for the purpose of facilitating a substitution pursuant to section 43;

(f) establish criteria for the appointment of mediators and members of review panels;

(g) establish criteria for the approval of a substitution pursuant to section 43;

(h) establish criteria for the purposes of an alternative manner of conducting an assessment of the environmental effects of a project referred to in subsection 46(2) or 47(2); and

(i) establish a participant funding program to facilitate the participation of the public in mediations and assessments by review panels.

e) recommander la nomination de membres temporaires auprès des organismes constitués par des autorités fédérales ou auprès des organismes visés à l'alinéa 40(1)d) pour les examens substitués aux examens par une commission aux termes de l'article 43;

f) fixer les critères de nomination des médiateurs et des membres des commissions d'évaluation environnementale;

g) fixer les critères applicables aux substitutions effectuées en vertu de l'article 43;

h) fixer les critères des modalités de rechange de l'évaluation environnementale des effets environnementaux visée au paragraphe 46(2) ou 47(2);

i) créer un fonds de participation afin de favoriser la participation du public aux médiations et aux évaluations par une commission d'examen.

Power to enter into international agreements

(2) The Minister and the Secretary of State for External Affairs may enter into agreements or arrangements with any jurisdiction within the meaning of paragraph 40(1)(e) or (f) respecting assessments of environmental effects, including, without limiting the generality of the foregoing, for the purposes of implementing the provisions of any international agreement or arrangement to which the Government of Canada is a party respecting the assessment of environmental effects referred to in subsection 47(1).

Accords internationaux

(2) Le ministre et le secrétaire d'État aux Affaires extérieures peuvent conclure des accords avec toute instance au sens des alinéas 40(1)e) ou f) en matière d'évaluation des effets environnementaux, notamment pour la mise en œuvre de tout accord international, auquel le gouvernement du Canada est partie, concernant l'examen des effets environnementaux visé au paragraphe 47(1).

Opportunity for public to comment

(3) The Minister shall provide reasonable public notice of and a reasonable opportunity for anyone to comment on draft guidelines, codes of practice, agreements, arrangements, criteria or orders under this section.

Préavis

(3) Le ministre donne un préavis public raisonnable des projets de lignes directrices, de codes de pratique, d'accords, de critères ou d'arrêtés établis en application du présent article, ainsi que la possibilité, pour quiconque, de faire des observations à leur sujet.

Availability to public

(4) Any guidelines, codes of practice, agreements, arrangements, criteria or orders shall be made available to the public.

Accessibilité

(4) Les lignes directrices, codes de pratique, accords, critères et arrêtés sont accessibles au public.

### Regulations

Regulations

59. The Governor in Council may make regulations

(a) respecting the procedures and requirements of, and the time periods relating to, the environmental assessment process set

### Règlements

Règlements

59. Le gouverneur en conseil peut, par règlement :

a) régir les procédures, les délais applicables et les exigences relatives au processus d'évaluation environnementale prévu par



out in this Act, including the conduct of assessments by review panels established pursuant to section 40;

(b) prescribing, for the purpose of the definition "project" in subsection 2(1), any physical activity or class of physical activities;

(c) prescribing any project or class of projects for which an environmental assessment is not required where the Governor in Council is satisfied that

(i) an environmental assessment of the project would be inappropriate for reasons of national security, or

(ii) in the case of a project in relation to a physical work, the environmental effects of the project are insignificant or the contribution of the responsible authority to the project in exercising powers or performing duties or functions referred to in section 5 in relation to the project is minimal;

(d) prescribing any project or class of projects for which a comprehensive study is required where the Governor in Council is satisfied that the project or any project within that class is likely to have significant adverse environmental effects;

(e) prescribing any body, other than the government of a province, to be a federal authority for the purposes of this Act;

(f) prescribing the provisions of any Act of Parliament or any regulation made pursuant thereto that confer powers, duties or functions on federal authorities the exercise or performance of which requires an environmental assessment under paragraph 5(1)(d);

(g) prescribing the provisions of any Act of Parliament or any regulation made pursuant to any such Act that confer powers, duties or functions on the Governor in Council, the exercise or performance of which require an environmental assessment under subsection 5(2);

(h) respecting the dissemination by responsible authorities of information relating to projects and the environmental assessment of projects and the establishment, maintenance and operation of a

la présente loi, notamment les évaluations effectuées par une commission aux termes de l'article 40;

b) désigner une activité concrète ou une catégorie d'activités concrètes pour l'application de la définition de « projet » au paragraphe 2(1);

c) désigner des projets ou des catégories de projets, liés à une activité concrète ou à une catégorie d'activités concrètes, pour lesquels l'évaluation environnementale n'est pas nécessaire, lorsqu'il est convaincu que :

(i) l'évaluation environnementale de ceux-ci ne serait pas indiquée pour des raisons de sécurité nationale,

(ii) dans le cas de projets liés à un ouvrage, les effets environnementaux de ceux-ci ne sont pas importants ou l'exercice par l'autorité responsable d'attributions visées à l'article 5 à l'égard de ces projets constitue une intervention marginale;

d) désigner des projets ou des catégories de projets susceptibles, selon lui, d'entraîner des effets environnementaux négatifs importants et pour lesquels une étude environnementale approfondie est obligatoire;

e) déterminer quels organismes, autres que le gouvernement d'une province, sont des autorités fédérales pour l'application de la présente loi;

f) déterminer les dispositions législatives ou réglementaires fédérales prévoyant les attributions des autorités fédérales relativement à un projet dont l'exercice rend nécessaire une évaluation environnementale en vertu de l'alinéa 5(1)d);

g) désigner les dispositions législatives ou réglementaires fédérales conférant des attributions au gouverneur en conseil pour l'exercice desquelles le paragraphe 5(2) exige une évaluation environnementale;

h) régir la communication par les autorités responsables de l'information relative aux projets et à l'évaluation environnementale de ceux-ci, et l'établissement et la tenue des registres publics, y compris les installations nécessaires pour permettre au public de consulter ces registres — que

public registry, including facilities to enable the public to examine physical or electronic records contained in the registry, the time and manner in which those records may be examined or copied by the public and the charging of fees therefor, and the transfer and retention of those records after the completion of any follow-up program;

(i) varying or excluding, in the prescribed circumstances, any procedure or requirement of the environmental assessment process set out in this Act or the regulations for the purpose of adapting the process in respect of

(i) projects to be carried out on reserves, surrendered lands or other lands that are vested in Her Majesty and subject to the *Indian Act*,

(ii) projects to be carried out outside Canada and any federal lands,

(iii) projects to be carried out under international agreements or arrangements entered into by the Government of Canada or a federal authority,

(iv) projects to be carried out within Canada or on federal lands in respect of which a federal authority exercises a power or performs a duty or function referred to in paragraph 5(1)(b) or (c),

(v) projects in respect of which the Canada-Nova Scotia Offshore Petroleum Board established pursuant to the *Canada-Nova Scotia Offshore Petroleum Resources Accord Implementation Act*, the Canada-Newfoundland Offshore Petroleum Board established pursuant to the *Canada-Newfoundland Atlantic Accord Implementation Act* or other similar boards exercise a power or perform a duty or function referred to in section 5, or

(vi) projects in relation to which there are matters of national security;

(j) respecting the manner of conducting assessments of the environmental effects of, and follow-up programs for projects for which a Crown corporation within the meaning of the *Financial Administration*

ceux-ci soient constitués de documents physiques ou informatiques — les heures et les modalités de consultation et de reproduction des registres, la fixation du prix à payer pour ces services ainsi que le transfert et la garde des documents une fois terminé le programme de suivi;

i) modifier ou exclure, dans les circonstances prévues par règlement, toute procédure ou exigence du processus d'évaluation environnementale établi en vertu de la présente loi et des règlements afin d'adapter le processus aux :

(i) projets à réaliser dans les réserves, terres cédées ou autres terres dévolues à Sa Majesté et assujetties à la *Loi sur les Indiens*,

(ii) projets à réaliser à l'extérieur du Canada et à l'extérieur du territoire domanial,

(iii) projets à entreprendre en vertu d'accords internationaux conclus par le gouvernement du Canada ou une autorité fédérale,

(iv) projets à réaliser au Canada ou sur le territoire domanial pour lesquels une autorité fédérale exerce une attribution visée aux alinéas 5(1)b) ou c),

(v) projets à l'égard desquels l'Office Canada — Nouvelle-Écosse des hydrocarbures extracôtiers constitué en application de la *Loi de mise en œuvre de l'Accord Canada — Nouvelle-Écosse sur les hydrocarbures extracôtiers*, l'Office Canada — Terre-Neuve des hydrocarbures extracôtiers constitué en application de la *Loi de mise en œuvre de l'Accord atlantique Canada — Terre-Neuve* ou un autre organisme semblable exerce des attributions visées à l'article 5,

(vi) projets qui soulèvent des questions de sécurité nationale;

j) régir les modalités d'évaluation des effets environnementaux et celles du suivi des projets à l'égard desquels les sociétés d'État, au sens de la *Loi sur la gestion des finances publiques*, ou les personnes morales dont elles ont le contrôle exercent une attribution visée aux alinéas 5(1)a), b) ou



Act or any corporation controlled by such a corporation exercises a power or performs a duty or function referred to in paragraph 5(1)(a), (b) or (c), respecting any action to be taken in respect of those projects during the environmental assessment process and, for those purposes, respecting the application of the laws from time to time in force in any province;

(k) respecting the manner of conducting assessments of the environmental effects of, and follow-up programs for projects for which The Hamilton Harbour Commissioners constituted pursuant to *The Hamilton Harbour Commissioner's Act*, The Toronto Harbour Commissioners constituted pursuant to *The Toronto Harbour Commissioners' Act, 1911*, or any harbour commission established pursuant to the *Harbour Commissions Act*, exercises a power or performs a duty or function referred to in paragraph 5(1)(a), (b) or (c), respecting any action to be taken in respect of those projects during the environmental assessment process and, for those purposes, respecting the application of the laws from time to time in force in any province;

(l) respecting the manner of conducting any assessment of the environmental effects of, and follow-up programs for a project for which a person or body receives financial assistance provided by a federal authority for the purpose of enabling the project to be carried out in whole or in part on a reserve that is set apart for the use and benefit of a band and that is subject to the *Indian Act*, and respecting any action to be taken in respect of that project during the environmental assessment process;

(m) prescribing anything that, by this Act, is to be prescribed; and

(n) generally, for carrying out the purposes and provisions of this Act.

c) régir toute mesure qui doit être prise à l'égard de ces projets au cours du processus d'évaluation environnementale et, à ces fins, régir l'application des lois d'une province en vigueur au moment de l'évaluation;

k) régir les modalités d'évaluation des effets environnementaux et celles du suivi des projets à l'égard desquels les commissaires nommés en vertu de la *Loi des commissaires du havre de Hamilton* et de la *Loi de 1911 concernant les commissaires du havre de Toronto* et les commissions portuaires constituées par la *Loi sur les commissions portuaires* exercent une attribution visée aux alinéas 5(1)a), b) ou c), régir toute mesure qui doit être prise à l'égard de ces projets au cours du processus d'évaluation environnementale et, à ces fins, régir l'application des lois d'une province en vigueur au moment de l'évaluation;

l) régir les modalités d'évaluation des effets environnementaux et celles du suivi des projets pour lesquels une personne ou un organisme reçoit d'une autorité fédérale une aide financière permettant la réalisation du projet en tout ou en partie sur une réserve mise de côté à l'usage et au profit d'une bande et assujettie à la *Loi sur les Indiens* et régir toute mesure qui doit être prise à l'égard des projets au cours du processus d'évaluation environnementale;

m) prendre toute mesure d'ordre réglementaire prévue par la présente loi;

n) prendre toute autre mesure d'application de la présente loi.

**60.** Notwithstanding this or any other Act of Parliament, where the Governor in Council is of the opinion that a federal authority on which duties and functions are imposed under this Act is unable to perform those

**60.** Malgré les autres dispositions de la présente loi ou toute autre loi fédérale, le gouverneur en conseil peut, s'il estime qu'une autorité fédérale assujettie à la présente loi ne peut remplir ses obligations en raison des



duties and functions by reason of a time limitation or other procedural requirement that is binding on the federal authority under an Act of Parliament other than this Act or any regulation made under such an Act, the Governor in Council may, on the recommendation of the Minister and the Minister responsible for the administration of that other Act, make regulations varying the time limitation or other procedural requirement in so far as it applies to those duties and functions and to the extent necessary to permit the federal authority to perform them.

#### CANADIAN ENVIRONMENTAL ASSESSMENT AGENCY

Agency established

**61.** (1) There is hereby established an agency, to be called the Canadian Environmental Assessment Agency, which shall advise and assist the Minister in performing the duties and functions conferred on the Minister by this Act.

Responsibility of Minister

(2) The Minister is responsible for the Agency.

Objects of Agency

**62.** The objects of the Agency are

- (a) to administer the environmental assessment process and any other requirements and procedures established by this Act and the regulations;
- (b) to promote uniformity and harmonization in the assessment of environmental effects across Canada at all levels of government;
- (c) to promote or conduct research in matters of environmental assessment and to encourage the development of environmental assessment techniques and practices, including testing programs, alone or in cooperation with other agencies or organizations;
- (d) to promote environmental assessment in a manner that is consistent with the purposes of this Act; and
- (e) to ensure an opportunity for public participation in the environmental assessment process.

Duties of Agency

**63.** (1) In carrying out its objects, the Agency shall

délais impartis ou de toute autre formalité prévue sous le régime d'une autre loi fédérale ou de ses règlements, prendre, sur la recommandation du ministre et du ministre responsable de l'application de cette autre loi, des règlements visant à modifier ces délais et formalités dans la mesure où ils s'appliquent à ces obligations et dans la mesure nécessaire pour permettre à l'autorité fédérale de remplir les obligations qui lui incombent sous le régime de la présente loi.

#### AGENCE CANADIENNE D'ÉVALUATION ENVIRONNEMENTALE

Constitution

**61.** (1) Est constituée l'Agence canadienne d'évaluation environnementale chargée de conseiller et d'assister le ministre dans l'exercice des attributions qui lui sont conférées par la présente loi.

Responsabilité du ministre

(2) L'Agence est placée sous la responsabilité du ministre.

Mission

**62.** L'Agence a pour mission :

- a) de gérer le processus d'évaluation environnementale et toute autre procédure ou exigence établis par la présente loi conformément à celle-ci et aux règlements;
- b) de promouvoir l'uniformisation et l'harmonisation des processus d'évaluation des effets environnementaux à l'échelle du Canada et à tous les niveaux administratifs;
- c) de promouvoir, seule ou en collaboration avec d'autres organismes, la recherche en matière d'évaluation environnementale, de mener des recherches en cette matière et de favoriser l'élaboration de techniques en cette matière, notamment en ce qui a trait aux programmes d'essais;
- d) de promouvoir les évaluations environnementales conformément à l'objet de la présente loi;
- e) de veiller à ce que le public ait la possibilité de participer au processus d'évaluation environnementale.

Attributions de l'Agence

**63.** (1) Dans l'exécution de sa mission, l'Agence :

- (a) provide administrative support for mediators and review panels;
- (b) provide, on the request of the Minister, administrative support for any research or advisory body that the Minister may establish in the area of environmental assessment; and
- (c) provide information or training to facilitate the conduct of environmental assessments.

- a) fournit un soutien administratif aux médiateurs et aux commissions d'évaluation environnementale;
- b) à la demande du ministre, fournit un soutien administratif aux organismes de recherche et de consultation en matière d'évaluation environnementale que le ministre peut créer;
- c) fournit toute information ou formation en vue de faciliter l'application du processus établi par la présente loi et les règlements.

Powers of  
Agency

(2) In carrying out its objects, the Agency may

- (a) undertake studies or activities or conduct research relating to environmental assessment;
- (b) advise persons and organizations on matters relating to the assessment of environmental effects;
- (c) negotiate agreements referred to in paragraph 58(1)(c) or (d) on behalf of the Minister;
- (d) examine and from time to time report to the Minister on the implementation of the environmental assessment process by responsible authorities; and
- (e) issue guidelines regarding the records to be kept by responsible authorities in relation to the environmental assessment process concerning projects.

(2) Dans l'exécution de sa mission, l'Agence peut :

- a) mener des études, entreprendre des travaux ou mener des recherches en matière d'évaluation environnementale;
- b) conseiller toute personne ou tout organisme en matière d'évaluation des effets environnementaux;
- c) négocier au nom du ministre les accords prévus aux alinéas 58(1)c) et d);
- d) examiner l'application du processus d'évaluation environnementale par les autorités responsables et en faire rapport au ministre;
- e) établir des lignes directrices relativement aux documents que celles-ci doivent conserver à l'égard du processus d'évaluation environnementale de projets.

Idem

Government  
facilities

64. In exercising its powers and performing its duties and functions under this Act, the Agency shall, where appropriate, make use of the services and facilities of departments, boards and agencies of the Government of Canada.

64. Dans l'exercice de ses attributions, l'Agence fait usage, en tant que de besoin, des installations et services des ministères et organismes fédéraux.

Usage des  
services  
fédéraux

President

65. (1) The Governor in Council shall appoint an officer to be called the President of the Agency, to hold office during pleasure, who shall be, for the purposes of this Act, a deputy of the Minister.

65. (1) Le gouverneur en conseil nommé à titre amovible le président de l'Agence; celui-ci a, pour l'application de la présente loi, rang d'administrateur général de ministère.

Président

Idem

(2) The President shall be the chief executive officer of the Agency, and may exercise all of the powers of the Minister under this Act as authorized by the Minister.

(2) Le président est le premier dirigeant de l'Agence et peut exercer les pouvoirs que la présente loi confère au ministre et que celui-ci l'autorise à exercer.

Idem

Acting  
President

(3) Subject to subsection (5), in the event of the absence or incapacity of the President

(3) Sous réserve du paragraphe (5), en cas d'absence ou d'empêchement du président ou

Absence ou  
empêchement



or a vacancy in that office, the Executive Vice-President shall act as, and exercise the powers of, the President for the time being.

de vacance de son poste, l'intérim est assuré par le premier vice-président.

Idem

(4) Subject to subsection (5), the Minister may appoint a person other than the Executive Vice-President to act as the President for the time being.

(4) Sous réserve du paragraphe (5), le ministre peut nommer une autre personne que le premier vice-président pour assurer l'intérim.

Idem

Approval required

(5) The Executive Vice-President, or a person appointed pursuant to subsection (4), shall not act as the President for a period exceeding ninety days without the approval of the Governor in Council.

(5) Le premier vice-président ou une personne nommée aux termes du paragraphe (4) ne peut assurer l'intérim que pour une période de quatre-vingt-dix jours, sauf approbation du gouverneur en conseil.

Approbation du gouverneur en conseil

Executive Vice-President

66. (1) The Governor in Council may appoint an officer, to be called the Executive Vice-President of the Agency, to hold office during pleasure.

66. (1) Le gouverneur en conseil peut nommer à titre amovible le premier vice-président de l'Agence.

Premier vice-président

Powers, duties and functions

(2) The Executive Vice-President shall exercise such powers and perform such duties and functions as the President may assign.

(2) Le premier vice-président exerce les pouvoirs et fonctions que lui attribue le président.

Pouvoirs et fonctions

Remuneration

67. The President and the Executive Vice-President shall be paid such remuneration as the Governor in Council may fix.

67. Les président et premier vice-président reçoivent la rémunération fixée par le gouverneur en conseil.

Rémunération

Appointment under the Public Service Employment Act

68. The officers and employees necessary to carry out the work of the Agency shall be appointed in accordance with the *Public Service Employment Act*.

68. Le personnel nécessaire à l'exécution des travaux de l'Agence est nommé conformément à la *Loi sur l'emploi dans la fonction publique*.

Nominations : *Loi sur l'emploi dans la fonction publique*

Head office

69. The head office of the Agency shall be in the National Capital Region described in the schedule to the *National Capital Act*.

69. Le siège de l'Agence est fixé dans la région de la capitale nationale définie à l'annexe de la *Loi sur la capitale nationale*.

Siège

Contracts, etc., binding on Her Majesty

70. (1) Every contract, memorandum of understanding and arrangement entered into by the Agency in its own name is binding on Her Majesty in right of Canada to the same extent as it is binding on the Agency.

70. (1) Les contrats ou ententes conclus par l'Agence sous son propre nom lient Sa Majesté du chef du Canada au même titre qu'elle-même.

Contrats

Legal proceedings

(2) Actions, suits or other legal proceedings in respect of any right or obligation acquired or incurred by the Agency, whether in its own name or in the name of Her Majesty in right of Canada, may be brought or taken by or against the Agency in the name of the Agency in any court that would have jurisdiction if the Agency were a corporation that is not an agent of Her Majesty.

(2) À l'égard des droits et obligations qu'elle assume sous le nom de Sa Majesté du chef du Canada ou le sien, l'Agence peut ester en justice sous son propre nom devant tout tribunal qui serait compétent si elle était dotée de la personnalité morale et n'avait pas la qualité de mandataire de Sa Majesté.

Actions en justice



## ANNUAL REPORT

Annual report  
to Parliament

**71. (1)** The Minister shall report annually to Parliament, within four months after the end of the fiscal year being reported, on the activities of the Agency and the administration and implementation of this Act and regulations during that year.

Statistical  
summary to be  
included

**(2)** The annual report to Parliament referred to in subsection (1) shall include a statistical summary of all environmental assessments conducted or completed, under the authority of this Act during the fiscal year being reported.

## REVIEW

Review

**72. (1)** Five years after the coming into force of this section, a comprehensive review of the provisions and operation of this Act shall be undertaken by the Minister.

Report to  
Parliament

**(2)** The Minister shall, within one year after a review is undertaken pursuant to subsection (1) or within such further time as the House of Commons may authorize, submit a report on the review to Parliament including a statement of any changes the Minister recommends.

## TRANSITIONAL

Employment  
continued

**73. (1)** Each person employed in the Federal Environmental Assessment Review Office, or seconded to that Office from any portion of the public service of Canada, on the day preceding the day on which section 61 comes into force is deemed to have been appointed pursuant to section 68 or seconded, as the case may be, to a position in the Agency of the same occupational nature and at the same level as the position occupied by the person on that preceding day.

Probation

**(2)** Notwithstanding section 28 of the *Public Service Employment Act*, no person who is deemed under subsection (1) to have been appointed to a position in the Agency is subject to probation unless the person was subject to probation on the day preceding the day of the deemed appointment, and any

## RAPPORT ANNUEL

Rapport annuel  
du ministre

**71. (1)** Dans les quatre mois suivant la fin de chaque exercice, le ministre établit un rapport sur l'application de la présente loi et de ses règlements et les activités de l'Agence au cours de l'exercice précédent et le fait déposer devant le Parlement.

Contenu du  
rapport

**(2)** Le rapport contient le résumé statistique des évaluations environnementales effectuées ou terminées en application de la présente loi au cours de l'exercice visé.

## EXAMEN

Examen

**72. (1)** Dans les cinq années qui suivent l'entrée en vigueur du présent article, un examen complet des dispositions et de l'application de la présente loi doit être fait par le comité, soit de la Chambre des communes, soit mixte, que le Parlement désigne ou constitue à cette fin.

Rapport au  
Parlement

**(2)** Dans l'année qui suit le début de l'étude visée au paragraphe (1) ou dans le délai supérieur que le Parlement lui accorde, le ministre remet son rapport, accompagné des modifications à la présente loi ou aux modalités d'application de celle-ci qu'il recommande, au Parlement.

## DISPOSITIONS TRANSITOIRES

Maintien en  
poste

**73. (1)** Les membres du personnel du Bureau fédéral d'examen des évaluations environnementales et les personnes détachées d'autres secteurs de l'administration publique fédérale auprès de lui et en fonctions à l'entrée en vigueur de l'article 61 deviennent membres de celui de l'Agence et sont réputés avoir été nommés à des fonctions identiques en vertu de l'article 68, ou être détachés auprès du Bureau, selon le cas, lors de cette entrée en vigueur.

Stage

**(2)** Par dérogation à l'article 28 de la *Loi sur l'emploi dans la fonction publique*, les personnes qui, la veille du jour de la présomption de nomination, étaient stagiaires continuent de l'être jusqu'à la fin de la période initialement prévue.

person who was so subject to probation continues subject thereto only for as long as would have been the case but for this section.

Guidelines  
Order  
continued

74. (1) The *Environmental Assessment and Review Process Guidelines Order*, approved by Order in Council P.C. 1984-2132 of June 21, 1984 and registered as SOR/84-467, shall continue to apply in respect of any proposal that prior to the coming into force of this section was referred to the Minister for public review and for which an Environmental Assessment Panel was established by the Minister pursuant to that Order.

Idem

(2) The Order referred to in subsection (1) shall continue to apply in respect of any proposal for which an environmental screening or initial assessment under that Order was commenced before the coming into force of this section, but where any such proposal is referred to the Minister for public review pursuant to section 20 of that Order, this Act shall thereupon apply and the Minister may refer the project to a mediator or a review panel in accordance with section 29.

Idem

(3) Where a proponent proposes to carry out, in whole or in part, a project for which an environmental screening or an initial assessment was conducted in accordance with the Order referred to in subsection (1), and

- (a) the project did not proceed after the assessment was completed,
- (b) in the case of a project that is in relation to a physical work, the proponent proposes an undertaking in relation to that work different from that proposed when the assessment was conducted,
- (c) the manner in which the project is to be carried out has subsequently changed, or
- (d) the renewal of a licence, permit, approval or other action under a prescribed provision is sought,

74. (1) Le *Décret sur les lignes directrices visant le processus d'évaluation et d'examen en matière d'environnement* approuvé par le décret C.P. 1984-2132 du 21 juin 1984 et enregistré sous le numéro DORS/84-467 continue de s'appliquer aux examens publics qui y sont visés et pour lesquels les membres de la commission d'évaluation environnementale ont été nommés sous son régime avant l'entrée en vigueur du présent article.

Maintien de  
l'application du  
décret

(2) Le décret visé au paragraphe (1) continue de s'appliquer aux examens préalables ou aux évaluations initiales commencés sous son régime avant l'entrée en vigueur du présent article, jusqu'au moment où, le cas échéant, une proposition est soumise au ministre pour examen public aux termes de l'article 20 du décret, auquel cas la présente loi commence de s'appliquer et le ministre peut prendre une décision aux termes de l'article 29.

Examens  
préalables en  
cours et  
évaluations  
initiales

(3) Dans le cas où un promoteur propose la réalisation de tout ou partie d'un projet à l'égard duquel l'examen préalable ou l'évaluation initiale a été effectuée sous le régime du décret visé au paragraphe (1), l'autorité responsable peut utiliser le rapport de l'examen ou de l'évaluation, ou en permettre l'utilisation, dans la mesure appropriée pour l'observation des articles 18 ou 21 dans chacun des cas suivants :

Utilisation  
d'une  
évaluation  
antérieure

- a) le projet n'a pas été réalisé après l'achèvement de l'évaluation;
- b) le promoteur d'un projet lié à un ouvrage en propose une réalisation différente de celle qui était proposée au moment de l'évaluation;
- c) les modalités de réalisation du projet sont nouvelles;
- d) la présentation d'une demande de renouvellement d'un permis, d'une licence, d'une autorisation ou d'une autre mesure en vertu d'une disposition désignée par règlement.



the responsible authority may use or permit the use of the environmental screening or initial assessment and the report thereon to whatever extent it is appropriate to do so for the purpose of complying with section 18 or 21.

Idem

(4) Where the construction or operation of a physical work or the carrying out of a physical activity was initiated before June 22, 1984, this Act shall not apply in respect of the issuance or renewal of a licence, permit, approval or other action under a prescribed provision in respect of the project unless the issuance or renewal entails a modification, decommissioning, abandonment or other alteration to the project, in whole or in part.

(4) Dans les cas où la construction ou l'exploitation d'un ouvrage ou la réalisation d'une activité concrète a été entamée avant le 22 juin 1984, la présente loi ne s'applique à la délivrance ou au renouvellement d'une licence, d'un permis, d'une autorisation ou à la prise d'une autre mesure en vertu d'une disposition désignée par règlement à l'égard du projet que si telle mesure entraîne la modification, la désaffectation ou la fermeture d'un ouvrage en tout ou en partie.

Commence-  
ment des  
activités  
antérieur au 22  
juin 1984

## CONSEQUENTIAL AMENDMENTS

R.S., c. A-1

*Access to Information Act*

75. Schedule I to the *Access to Information Act* is amended by adding thereto, in alphabetical order under the heading "*Other Government Institutions*", the following:

Canadian Environmental Assessment  
Agency

*Agence canadienne d'évaluation environ-  
nementale*

76. Schedule II to the said Act is amended by adding thereto, in alphabetical order, a reference to

Canadian Environmental Assessment Act  
*Loi canadienne sur l'évaluation environ-  
nementale*

and a corresponding reference in respect of that Act to "subsection 35(4)".

R.S., c. 16 (4th  
Supp.)

*Canadian Environmental Protection Act*

77. The definition "federal lands" in section 52 of the *Canadian Environmental Protection Act* is repealed and the following substituted therefor:

"federal lands"  
« territoire... »

"federal lands" means

(a) lands that belong to Her Majesty in right of Canada, or that Her Majesty in

## MODIFICATIONS CORRÉLATIVES

*Loi sur l'accès à l'information*

L.R., ch. A-1

75. L'annexe I de la *Loi sur l'accès à l'information* est modifiée par insertion, suivant l'ordre alphabétique, sous l'intertitre "*Autres institutions fédérales*", de ce qui suit :

Agence canadienne d'évaluation environne-  
mentale

*Canadian Environmental Assessment  
Agency*

76. L'annexe II de la même loi est modifiée par insertion, suivant l'ordre alphabétique, de ce qui suit :

Loi canadienne sur l'évaluation environne-  
mentale

*Canadian Environmental Assessment Act*  
ainsi que de la mention « paragraphe 35(4) »  
placée en regard de ce titre de loi.

*Loi canadienne sur la protection de  
l'environnement*

L.R., ch. 16 (4<sup>e</sup>  
suppl.)

77. La définition de « territoire domanial », à l'article 52 de la *Loi canadienne sur la protection de l'environnement*, est abrogée et remplacée par ce qui suit :

« territoire domanial »

a) Les terres qui appartiennent à Sa  
Majesté du chef du Canada ou qu'elle a

« territoire  
domanial »  
"federal lands"



right of Canada has the right to dispose of, and all waters on and airspace above those lands,

(b) the following lands and areas, namely,

(i) the internal waters of Canada within the meaning of the *Territorial Sea and Fishing Zones Act*, including the seabed and subsoil below and the airspace above those waters,

(ii) the territorial sea of Canada as determined in accordance with the *Territorial Sea and Fishing Zones Act*, including the seabed and subsoil below and the airspace above that sea,

(iii) any fishing zone of Canada prescribed under the *Territorial Sea and Fishing Zones Act*,

(iv) any exclusive economic zone that may be created by Canada, and

(v) the continental shelf, consisting of the seabed and subsoil of the submarine areas that extend beyond the territorial sea throughout the natural prolongation of the land territory of Canada to the outer edge of the continental margin or to a distance of two hundred nautical miles from the inner limits of the territorial sea, whichever is the greater, or that extend to such other limits as may be prescribed pursuant to an Act of Parliament, and

(c) reserves, surrendered lands and any other lands that are set apart for the use and benefit of a band and are subject to the *Indian Act*, and all waters on and airspace above those reserves or lands;

le pouvoir d'aliéner, ainsi que leurs eaux et leur espace aérien;

b) les terres et zones suivantes :

(i) les eaux intérieures du Canada au sens de la *Loi sur la mer territoriale et la zone de pêche*, ainsi que leur fond, leur sous-sol et leur espace aérien,

(ii) la mer territoriale du Canada délimitée conformément à la *Loi sur la mer territoriale et la zone de pêche*, ainsi que le fond de la mer, son sous-sol et son espace aérien,

(iii) toute zone de pêche délimitée par règlement pris sous le régime de la *Loi sur la mer territoriale et la zone de pêche*,

(iv) toute zone économique exclusive créée par le gouvernement fédéral,

(v) le plateau continental, c'est-à-dire le fond de la mer et le sous-sol des zones sous-marines qui s'étendent au-delà de la mer territoriale sur tout le prolongement naturel du territoire terrestre du Canada soit jusqu'au rebord externe de la marge continentale, soit jusqu'à deux cents milles marins des limites intérieures de la mer territoriale là où ce rebord se trouve à une distance inférieure, soit jusqu'aux limites fixées au titre d'une loi fédérale;

c) les réserves, terres cédées ou autres terres qui ont été mises de côté à l'usage et au profit d'une bande et assujetties à la *Loi sur les Indiens*, ainsi que leurs eaux et leur espace aérien.

R.S., c. P-21

#### *Privacy Act*

78. The schedule to the *Privacy Act* is amended by adding thereto, in alphabetical order under the heading "*Other Government Institutions*", the following:

Canadian Environmental Assessment Agency

*Agence canadienne d'évaluation environnementale*

#### *Loi sur la protection des renseignements personnels*

L.R., ch. P-21

78. L'annexe de la *Loi sur la protection des renseignements personnels* est modifiée par insertion, suivant l'ordre alphabétique, sous l'intertitre « *Autres institutions fédérales* », de ce qui suit :

Agence canadienne d'évaluation environnementale

*Canadian Environmental Assessment Agency*

R.S., c. P-35

*Public Service Staff Relations Act**Loi sur les relations de travail dans la fonction publique*

L.R., ch. P-35

**79. Part I of Schedule I to the *Public Service Staff Relations Act* is amended by adding thereto, in alphabetical order, the following:**

Canadian Environmental Assessment Agency

*Agence canadienne d'évaluation environnementale*

**79. La partie I de l'annexe I de la *Loi sur les relations de travail dans la fonction publique* est modifiée par insertion, suivant l'ordre alphabétique, de ce qui suit :**

Agence canadienne d'évaluation environnementale

*Canadian Environmental Assessment Agency*

R.S., c. P-36

*Public Service Superannuation Act**Loi sur la pension de la fonction publique*

L.R., ch. P-36

**80. Part I of Schedule I to the *Public Service Superannuation Act* is amended by adding thereto, in alphabetical order, the following:**

Canadian Environmental Assessment Agency

*Agence canadienne d'évaluation environnementale*

**80. La partie I de l'annexe I de la *Loi sur la pension de la fonction publique* est modifiée par insertion, suivant l'ordre alphabétique, de ce qui suit :**

Agence canadienne d'évaluation environnementale

*Canadian Environmental Assessment Agency*

R.S., c. T-19

*Transportation of Dangerous Goods Act**Loi sur le transport des marchandises dangereuses*

L.R., ch. T-19

**81. Section 28 of the *Transportation of Dangerous Goods Act* is repealed and the following substituted therefor:**

**28.** Where the Minister or a person designated by the Minister considers it necessary for the protection of public safety, property or the environment, the Minister may, subject to any regulation made pursuant to paragraph 21(r), direct any person engaged in handling, offering for transport or transporting dangerous goods forthwith to cease any such activity or to carry it on in the manner directed.

**81. L'article 28 de la *Loi sur le transport des marchandises dangereuses* est abrogé et remplacé par ce qui suit :**

**28.** Dans les cas où il l'estime nécessaire pour la protection de la sécurité publique, des biens ou de l'environnement, le ministre ou la personne qu'il désigne peut, sous réserve des règlements pris en vertu de l'alinéa 21r), ordonner à des personnes déterminées qui se livrent à des opérations de manutention ou de transport de marchandises dangereuses soit de cesser ces opérations, soit de les mener selon des modalités bien précises, sans délai.

Protection du public

## COMING INTO FORCE

## ENTRÉE EN VIGUEUR

Coming into force

**82. This Act, or any provision of this Act, shall come into force on a day or days to be fixed by order of the Governor in Council.**

**82. La présente loi ou telle de ses dispositions entre en vigueur à la date ou aux dates fixées par décret du gouverneur en conseil.**

Entrée en vigueur

First Session, Thirty-fifth Parliament,  
42-43 Elizabeth II, 1994

Première session, trente-cinquième législature,  
42-43 Elizabeth II, 1994

## STATUTES OF CANADA 1994

## LOIS DU CANADA (1994)

### CHAPTER 46

### CHAPITRE 46

An Act to amend the Canadian Environmental Assessment  
Act

Loi modifiant la Loi canadienne sur l'évaluation  
environnementale

---

**BILL C-56**

---

**PROJET DE LOI C-56**

**ASSENTED TO 15th DECEMBER, 1994**

---

**SANCTIONNÉ LE 15 DÉCEMBRE 1994**

---



## SUMMARY

These amendments to the *Canadian Environmental Assessment Act* provide:

- for the creation of a participant funding program to encourage Canadians to participate at hearings conducted by public review panels;
- that, to the extent possible, only one federal environmental assessment is conducted with respect to a project; and
- that the response of a responsible authority to the recommendations of a review panel is subject to Governor in Council approval.

## SOMMAIRE

Les modifications apportées à la *Loi canadienne sur l'évaluation environnementale* :

- assurent la création d'un fond d'aide aux participants afin d'encourager les Canadiens et Canadiennes à participer aux audiences publiques tenues par les commissions d'évaluation environnementale;
- assurent, autant que possible, la tenue d'une seule évaluation environnementale fédérale par projet;
- veillent à ce que la réponse d'une autorité responsable aux recommandations formulées par une commission d'évaluation environnementale soit préalablement approuvée par le gouverneur en conseil.

## 42-43 ELIZABETH II

### CHAPTER 46

An Act to amend the Canadian Environmental Assessment Act

[Assented to 15th December, 1994]

Her Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:

**1. Section 4 of the *Canadian Environmental Assessment Act* is amended by adding the following after paragraph (b):**

(b.1) to ensure that responsible authorities carry out their responsibilities in a coordinated manner with a view to eliminating unnecessary duplication in the environmental assessment process;

**2. (1) The portion of subsection 24(1) of the Act after paragraph (d) is replaced by the following:**

the responsible authority shall use that assessment and the report thereon to whatever extent is appropriate for the purpose of complying with section 18 or 21.

**(2) Subsection 24(2) of the Act is replaced by the following:**

(2) Where a responsible authority uses an environmental assessment and the report thereon pursuant to subsection (1), the responsible authority shall ensure that any adjustments are made to the report that are necessary to take into account any significant changes in the environment and in the circumstances of the project and any significant new information relating to the environmental effects of the project.

1992, c. 37  
[c. C-15.2];  
1992, c. 34;  
1993, cc. 28,  
34; 1994,  
c. 26

Necessary  
adjustments

## 42-43 ELIZABETH II

### CHAPITRE 46

Loi modifiant la Loi canadienne sur l'évaluation environnementale

[Sanctionnée le 15 décembre 1994]

Sa Majesté, sur l'avis et avec le consentement du Sénat et de la Chambre des communes du Canada, édicte :

**1. L'article 4 de la *Loi canadienne sur l'évaluation environnementale* est modifié par adjonction, après l'alinéa b), de ce qui suit :**

b.1) de faire en sorte que les autorités responsables s'acquittent de leurs obligations afin d'éviter tout double emploi dans le processus d'évaluation environnementale;

**2. (1) Le passage du paragraphe 24(1) de la même loi précédant l'alinéa a) est remplacé par ce qui suit :**

24. (1) Si un promoteur se propose de mettre en oeuvre, en tout ou en partie, un projet ayant déjà fait l'objet d'une évaluation environnementale, l'autorité responsable doit utiliser l'évaluation et le rapport correspondant dans la mesure appropriée pour l'application des articles 18 ou 21 dans chacun des cas suivants :

**(2) Le paragraphe 24(2) de la même loi est remplacé par ce qui suit :**

(2) Dans les cas visés au paragraphe (1), l'autorité responsable veille à ce que soient apportées au rapport les adaptations nécessaires à la prise en compte des changements importants de circonstances survenus depuis l'évaluation et de tous renseignements importants relatifs aux effets environnementaux du projet.

1992, ch. 37  
[ch. C-15.2];  
1992, ch. 34;  
1993, ch. 28,  
34; 1994,  
ch. 26

Utilisation  
d'une  
évaluation  
antérieure

Adaptations  
nécessaires

**3. (1) The portion of subsection 37(1) of the Act before paragraph (a) is replaced by the following:**

**37. (1)** Subject to subsection (1.1), the responsible authority shall take one of the following courses of action in respect of a project after taking into consideration the report submitted by a mediator or a review panel or, in the case of a project referred back to the responsible authority pursuant to paragraph 23(a), the comprehensive study report:

**(2) Section 37 of the Act is amended by adding the following after subsection (1):**

(1.1) Where a report is submitted by a mediator or review panel,

(a) the responsible authority shall take into consideration the report and, with the approval of the Governor in Council, respond to the report;

(b) the Governor in Council may, for the purpose of giving the approval referred to in paragraph (a), require the mediator or review panel to clarify any of the recommendations set out in the report; and

(c) the responsible authority shall take a course of action under subsection (1) that is in conformity with the approval of the Governor in Council referred to in paragraph (a).

**4. (1) Subsection 58(1) of the Act is amended by adding the word “and” at the end of paragraph (g), by striking out the word “and” at the end of paragraph (h) and by repealing paragraph (i).**

**(2) Section 58 of the Act is amended by adding the following after subsection (1):**

(1.1) For the purposes of this Act, the Minister shall establish a participant funding program to facilitate the participation of the public in mediations and assessments by review panels.

**5. (1) Paragraph 59(a) of the Act is replaced by the following:**

(a) respecting the procedures and requirements of, and the time periods relating to,

**3. (1) Le passage du paragraphe 37(1) de la même loi précédant l’alinéa a) est remplacé par ce qui suit :**

**37. (1)** Sous réserve du paragraphe (1.1), l’autorité responsable, après avoir pris en compte le rapport du médiateur ou de la commission ou si le ministre, à la suite du rapport d’étude approfondie, lui demande de prendre une décision aux termes de l’alinéa 23a), prend l’une des décisions suivantes :

**(2) L’article 37 de la même loi est modifié par adjonction, après le paragraphe (1), de ce qui suit :**

(1.1) Une fois pris en compte le rapport du médiateur ou de la commission, l’autorité responsable est tenue d’y donner suite avec l’agrément du gouverneur en conseil, qui peut demander des précisions sur l’une ou l’autre de ses conclusions; l’autorité responsable prend alors la décision visée au titre du paragraphe (1) conformément à l’agrément.

**4. (1) L’alinéa 58(1)i) de la même loi est abrogé.**

**(2) L’article 58 de la même loi est modifié par adjonction, après le paragraphe (1), de ce qui suit :**

(1.1) Le ministre crée, pour l’application de la présente loi, un fonds de participation du public aux médiations et aux évaluations par une commission d’examen.

**5. (1) L’alinéa 59a) de la même loi est remplacé par ce qui suit :**

a) régir les procédures, les délais applicables et les exigences relatives à l’évaluation

Decision of  
responsible  
authority

Approval of  
Governor in  
Council

Participant  
funding

Autorité  
responsable

Agrément du  
gouverneur  
en conseil

Fonds de  
participation



environmental assessment and follow-up programs, including the conduct of assessments by review panels established pursuant to section 40 and the timing of taking a course of action pursuant to section 20 or 37 where two or more federal authorities are likely to exercise a power or perform a duty or function referred to in section 5 with respect to the same project;

**(2) Section 59 of the Act is amended by adding the following after paragraph (l):**

(l.1) respecting a participant funding program referred to in subsection 58(1.1);

**6. This Act, or any provision of this Act, shall come into force on a day or days to be fixed by order of the Governor in Council.**

environnementale et au programme de suivi, notamment le moment de la prise de mesures au titre des articles 20 ou 37 quand plusieurs autorités fédérales sont susceptibles d'exercer les attributions visées à l'article 5, ainsi que les évaluations effectuées par une commission aux termes de l'article 40;

**(2) L'article 59 de la même loi est modifié par adjonction, après l'alinéa l), de ce qui suit :**

l.1) prendre toute mesure relativement au fonds de participation mentionné au paragraphe 58(1.1);

**6. La présente loi ou telle de ses dispositions entre en vigueur à la date ou aux dates fixées par décret.**

Coming into  
force

Entrée en  
vigueur















Extract  
Canada Gazette, Part II  
October 19, 1994



Extrait  
Gazette du Canada, Partie II  
Le 19 octobre 1994

**DEPARTMENT OF THE  
ENVIRONMENT**

**MINISTÈRE DE  
L'ENVIRONNEMENT**

**Law List Regulations**

**Règlement sur les dispositions législatives  
et réglementaires désignées**

**Inclusion List Regulations**

**Règlement sur la liste d'inclusion**

**Comprehensive Study List Regulations**

**Règlement sur la liste d'étude approfondie**

**Exclusion List Regulations**

**Règlement sur la liste d'exclusion**



Registration  
SOR/94-636 7 October, 1994

Enregistrement  
DORS/94-636 7 octobre 1994

CANADIAN ENVIRONMENTAL ASSESSMENT ACT

LOI CANADIENNE SUR L'ÉVALUATION  
ENVIRONNEMENTALE

**Law List Regulations**

**Règlement sur les dispositions législatives et  
réglementaires désignées**

P.C. 1994-1685 7 October, 1994

C.P. 1994-1685 7 octobre 1994

His Excellency the Governor General in Council, on the recommendation of the Minister of the Environment, pursuant to paragraphs 59(f) and (g) of the Canadian Environmental Assessment Act\*, is pleased hereby to make the annexed Regulations prescribing provisions of Acts of Parliament and regulations made pursuant to any such Act that confer powers, duties or functions on federal authorities or on the Governor in Council, the exercise of which requires an environmental assessment, effective on the day on which section 59 of the Canadian Environmental Assessment Act comes into force.

Sur recommandation de la ministre de l'Environnement et en vertu des alinéas 59f) et g) de la Loi canadienne sur l'évaluation environnementale\*, il plaît à Son Excellence le Gouverneur général en conseil de prendre le Règlement désignant les dispositions législatives et réglementaires fédérales prévoyant les attributions des autorités fédérales et du gouverneur en conseil dont l'exercice rend nécessaire une évaluation environnementale, ci-après, lequel entre en vigueur à la date d'entrée en vigueur de l'article 59 de la Loi canadienne sur l'évaluation environnementale.

REGULATIONS PRESCRIBING PROVISIONS OF ACTS  
OF PARLIAMENT AND REGULATIONS MADE  
PURSUANT TO ANY SUCH ACT THAT CONFER  
POWERS, DUTIES OR FUNCTIONS ON FEDERAL  
AUTHORITIES OR ON THE GOVERNOR IN COUNCIL,  
THE EXERCISE OF WHICH REQUIRES AN  
ENVIRONMENTAL ASSESSMENT

RÈGLEMENT DÉSIGNANT LES DISPOSITIONS  
LÉGISLATIVES ET RÉGLEMENTAIRES FÉDÉRALES  
PRÉVOYANT LES ATTRIBUTIONS DES AUTORITÉS  
FÉDÉRALES ET DU GOUVERNEUR EN CONSEIL  
DONT L'EXERCICE REND NÉCESSAIRE UNE  
ÉVALUATION ENVIRONNEMENTALE

*Short Title*

*Titre abrégé*

1. These Regulations may be cited as the *Law List Regulations*.

1. *Règlement sur les dispositions législatives et réglementaires désignées.*

*General*

*Dispositions générales*

2. The provisions of an Act set out in Part I of Schedule I and a regulation set out in Part II of that Schedule are prescribed for the purposes of paragraph 5(1)(d) of the *Canadian Environmental Assessment Act*.

2. Pour l'application de l'alinéa 5(1)d) de la *Loi canadienne sur l'évaluation environnementale*, les dispositions législatives et réglementaires sont celles prévues respectivement aux parties I et II de l'annexe I.

3. The provisions of an Act set out in Schedule II are prescribed for the purposes of subsection 5(2) of the *Canadian Environmental Assessment Act*.

3. Pour l'application du paragraphe 5(2) de la *Loi canadienne sur l'évaluation environnementale*, les dispositions législatives sont celles prévues à l'annexe II.

\* S.C. 1992, c. 37

\* L.C. 1992, ch. 37



SCHEDULE I  
(Section 2)

PROVISIONS OF ACTS AND REGULATIONS THAT  
CONFER POWERS, DUTIES OR FUNCTIONS ON  
FEDERAL AUTHORITIES

PART I

PROVISIONS OF ACTS

Item*	Provisions
1. (12)	<i>Arctic Waters Pollution Prevention Act</i> (a) subsection 10(3), as delegated by the Governor in Council Authority Delegation Order
2. (9)	<i>Canada Oil and Gas Operations Act</i> (a) paragraph 5(1)(b) (b) subsection 5.1(4)
3. (13)	<i>Canadian Environmental Protection Act</i> (a) subsection 71(1) (b) subsection 72(4)
4. (6)	<i>Dominion Water Power Act</i> (a) subsection 7(1)
5. (5)	<i>Explosives Act</i> (a) paragraph 7(1)(a)
6. (11)	<i>Fisheries Act</i> (a) subsection 22(1) (b) subsection 22(2) (c) subsection 22(3) (d) section 32 (e) subsection 35(2) (f) subsection 37(2)
7. (7)	<i>Indian Act</i> (a) subsection 18(2) (b) subsection 28(2) (c) paragraph 58(4)(b)
8. (8)	<i>National Energy Board Act</i> (a) subsection 46(1) (b) subsection 58(1) (c) subsection 58.11(1) (d) subsection 58.32(1) (e) subsection 58.34(2) (f) paragraph 74(1)(d) (g) subsection 81(4) (h) subsection 108(4) (i) subsection 108(6) (j) subsection 112(1) (k) subsection 112(3)
9. (10)	<i>National Parks Act</i> (a) paragraph 5(10)(c) (b) paragraph 5(10)(e)
10. (18)	<i>National Transportation Act, 1987</i> (a) section 41 (b) subsection 44(3) (c) subsection 147(4) (d) subsection 150(1) (e) subsection 151(5) (f) section 162 (g) subsection 165(1) (h) section 166 (i) subsection 232(1) (j) paragraph 243(1)(a)

ANNEXE I  
(article 2)

DISPOSITIONS LÉGISLATIVES ET RÉGLEMENTAIRES  
CONFÉRANT DES ATTRIBUTIONS À UNE AUTORITÉ  
FÉDÉRALE

PARTIE I

DISPOSITIONS LÉGISLATIVES

Article*	Dispositions
1. (14)	<i>Loi sur les chemins de fer</i> a) paragraphe 112(3) b) paragraphe 115(1) c) paragraphe 115(3) d) paragraphe 123(1) e) paragraphe 123(4) f) paragraphe 127(1) g) paragraphe 130(1) h) article 131 i) article 132 j) paragraphe 145(4) k) paragraphe 196(6) l) alinéa 197(3)a) m) paragraphe 201(2) n) alinéa 202(1)c) o) alinéa 202(1)d) p) paragraphe 212(1) q) paragraphe 212(2) r) paragraphe 214(3) s) article 216 t) paragraphe 230(1) u) paragraphe 326(3) v) paragraphe 329(3) w) alinéa 330(1)a) x) alinéa 330(1)b) y) paragraphe 330(2)
2. (16)	<i>Loi sur le déplacement des lignes de chemin de fer et les croisements de chemin de fer</i> a) article 7 b) paragraphe 8(1)
3. (12)	<i>Loi sur les eaux des Territoires du Nord-Ouest</i> a) paragraphe 14(1) b) alinéa 18(1)a) c) alinéa 18(1)b) d) alinéa 18(1)c)
4. (18)	<i>Loi sur les eaux du Yukon</i> a) paragraphe 14(1) b) alinéa 18(1)a) c) alinéa 18(1)b) d) alinéa 18(1)c)
5. (5)	<i>Loi sur les explosifs</i> a) alinéa 7(1)a)
6. (4)	<i>Loi sur les forces hydrauliques du Canada</i> a) paragraphe 7(1)
7. (7)	<i>Loi sur les Indiens</i> a) paragraphe 18(2) b) paragraphe 28(2) c) alinéa 58(4)b)

## SCHEDULE I—Continued

## PART I—Concluded

Item*	Provisions
11. (14)	<i>Navigable Waters Protection Act</i>
	(a) paragraph 5(1)(a)
	(b) subsection 6(4)
	(c) section 16
	(d) section 20
12. (3)	<i>Northwest Territories Waters Act</i>
	(a) subsection 14(1)
	(b) paragraph 18(1)(a)
	(c) paragraph 18(1)(b)
	(d) paragraph 18(1)(c)
13. (15)	<i>Radiocommunication Act</i>
	(a) paragraph 5(1)(f)
14. (1)	<i>Railway Act</i>
	(a) subsection 112(3)
	(b) subsection 115(1)
	(c) subsection 115(3)
	(d) subsection 123(1)
	(e) subsection 123(4)
	(f) subsection 127(1)
	(g) subsection 130(1)
	(h) section 131
	(i) section 132
	(j) subsection 145(4)
	(k) subsection 196(6)
	(l) paragraph 197(3)(a)
	(m) subsection 201(2)
	(n) paragraph 202(1)(c)
	(o) paragraph 202(1)(d)
	(p) subsection 212(1)
	(q) subsection 212(2)
	(r) subsection 214(3)
	(s) section 216
	(t) subsection 230(1)
	(u) subsection 326(3)
	(v) subsection 329(3)
	(w) paragraph 330(1)(a)
	(x) paragraph 330(1)(b)
	(y) subsection 330(2)
15. (16)	<i>Railway Safety Act</i>
	(a) subsection 10(1)
16. (2)	<i>Railway Relocation and Crossing Act</i>
	(a) section 7
	(b) subsection 8(1)
17. (17)	<i>Telecommunications Act</i>
	(a) subsection 19(1)
	(b) subsection 19(4)
18. (4)	<i>Yukon Waters Act</i>
	(a) subsection 14(1)
	(b) paragraph 18(1)(a)
	(c) paragraph 18(1)(b)
	(d) paragraph 18(1)(c)

## ANNEXE I (suite)

## PARTIE I (suite et fin)

Article*	Dispositions
8. (8)	<i>Loi sur l'Office national de l'énergie</i>
	a) paragraphe 46(1)
	b) paragraphe 58(1)
	c) paragraphe 58.11(1)
	d) paragraphe 58.32(1)
	e) paragraphe 58.34(2)
	f) alinéa 74(1)d)
	g) paragraphe 81(4)
	h) paragraphe 108(4)
	i) paragraphe 108(6)
	j) paragraphe 112(1)
	k) paragraphe 112(3)
9. (2)	<i>Loi sur les opérations pétrolières au Canada</i>
	a) alinéa 5(1)b)
	b) paragraphe 5.1(4)
10. (9)	<i>Loi sur les parcs nationaux</i>
	a) alinéa 5(10)c)
	b) alinéa 5(10)e)
11. (6)	<i>Loi sur les pêches</i>
	a) paragraphe 22(1)
	b) paragraphe 22(2)
	c) paragraphe 22(3)
	d) article 32
	e) paragraphe 35(2)
	f) paragraphe 37(2)
12. (1)	<i>Loi sur la prévention de la pollution des eaux arctiques</i>
	a) paragraphe 10(3), les attributions qui y sont prévues ayant été déléguées par le Décret de délégation de pouvoirs par le gouverneur en conseil
13. (3)	<i>Loi canadienne sur la protection de l'environnement</i>
	a) paragraphe 71(1)
	b) paragraphe 72(4)
14. (11)	<i>Loi sur la protection des eaux navigables</i>
	a) alinéa 5(1)a)
	b) paragraphe 6(4)
	c) article 16
	d) article 20
15. (13)	<i>Loi sur la radiocommunication</i>
	a) alinéa 5(1)f)
16. (15)	<i>Loi sur la sécurité ferroviaire</i>
	a) paragraphe 10(1)
17. (17)	<i>Loi sur les télécommunications</i>
	a) paragraphe 19(1)
	b) paragraphe 19(4)
18. (10)	<i>Loi de 1987 sur les transports nationaux</i>
	a) article 41
	b) paragraphe 44(3)
	c) paragraphe 147(4)
	d) paragraphe 150(1)
	e) paragraphe 151(5)
	f) article 162
	g) paragraphe 165(1)
	h) article 166
	i) paragraphe 232(1)
	j) alinéa 243(1)a)

## SCHEDULE I—Continued

## PART II

## PROVISIONS OF REGULATIONS

Item*	Provisions
1. (21)	<i>Ammonium Nitrate Storage Facilities Regulations</i> (a) subsection 5(1) (b) subsection 5(2) (c) subsection 6(1)
2. (33)	<i>Anhydrous Ammonium Bulk Storage Regulations</i> (a) section 6
3. (10)	<i>Atomic Energy Control Regulations</i> (a) subsection 7(1) (b) section 10 (c) paragraph 25(1)(b) (d) subsection 27(1)
4. (20)	<i>Chlorine Tank Car Unloading Facilities Regulations</i> (a) subsection 6(1) (b) subsection 6(2)
5. (17)	<i>Dominion Water Power Regulations</i> (a) subsection 8(1) (b) subsection 12(2) (c) section 21 (d) subsection 25(2) (e) subsection 40(1) (f) section 46 (g) subsection 49(3) (h) section 50 (i) subsection 69(3)
6. (8)	<i>External Submarine Cable Regulations</i> (a) paragraph 3(b) (b) paragraph 4(b)
7. (35)	<i>Federal Mobile PCB Treatment and Destruction Regulations</i> (a) section 11 (b) subsection 12(1)
8. (19)	<i>Federal Real Property Regulations</i> (a) paragraph 4(2)(a)
9. (14)	<i>Flammable Liquids Bulk Storage Regulations</i> (a) section 6
10. (32)	<i>Health of Animals Regulations</i> (a) paragraph 10(1)(a)
11. (9)	<i>Historic Canals Regulations</i> (a) subsection 14(2)

## ANNEXE I (suite)

## PARTIE II

## DISPOSITIONS RÉGLEMENTAIRES

Article*	Dispositions
1. (17)	<i>Règlement sur l'amélioration des cours d'eau internationaux</i> a) paragraphe 10(1) b) article 12
2. (24)	<i>Règlement sur les bâtiments des parcs nationaux</i> a) paragraphe 5(1)
3. (26)	<i>Règlement de 1991 sur les baux et les permis d'occupation dans les parcs nationaux</i> a) paragraphe 18(1)
4. (32)	<i>Règlement de 1993 sur le bois</i> a) paragraphe 7(3) b) article 14
5. (25)	<i>Règlement sur le bois dans les parcs nationaux</i> a) paragraphe 4(1)
6. (16)	<i>Règlement sur le bois de construction des Indiens</i> a) paragraphe 5(1) b) article 9 c) paragraphe 22(1)
7. (37)	<i>Règlement sur le bois du Yukon</i> a) article 4 b) paragraphe 5(1)
8. (6)	<i>Règlement sur les câbles sous-marins de communication avec l'extérieur</i> a) alinéa 3b) b) alinéa 4b)
9. (11)	<i>Règlement sur les canaux historiques</i> a) paragraphe 14(2)
10. (3)	<i>Règlement sur le contrôle de l'énergie atomique</i> a) paragraphe 7(1) b) article 10 c) alinéa 25(1)b) d) paragraphe 27(1)
11. (15)	<i>Règlement sur la destruction des déchets dans les réserves indiennes</i> a) article 5
12. (19)	<i>Règlement sur les effluents liquides des mines de métaux</i> a) paragraphe 5(2)
13. (18)	<i>Règlement sur l'emmagasiner en vrac des gaz de pétrole liquéfiés</i> a) article 6



## SCHEDULE I—Continued

## PART II—Continued

Item*	Provisions
12. (34)	<i>I.A. and N.D. Canal Land Regulations</i> (a) section 6 (b) paragraph 7(a) (c) paragraph 7(d) (d) paragraph 7(f)
13. (15)	<i>Indian Mining Regulations</i> (a) subsection 5(2) (b) subsection 6(1)
14. (27)	<i>Indian Oil and Gas Regulations</i> (a) subsection 5(2) (b) subsection 7(1) (c) subsection 7(5) (d) subsection 10(4) (e) subsection 22(1) (f) subsection 26(2) (g) subsection 27(4) (h) subsection 28(4) (i) subsection 31(1)
15. (11)	<i>Indian Reserve Waste Disposal Regulations</i> (a) section 5
16. (6)	<i>Indian Timber Regulations</i> (a) subsection 5(1) (b) section 9 (c) subsection 22(1)
17. (1)	<i>International River Improvements Regulations</i> (a) subsection 10(1) (b) section 12
18. (13)	<i>Liquefied Petroleum Gases Bulk Storage Regulations</i> (a) section 6
19. (12)	<i>Metal Mining Liquid Effluent Regulations</i> (a) subsection 5(2)
20. (23)	<i>Migratory Birds Regulations</i> (a) subsection 4(1) (b) section 33 (c) paragraph 35(2)(b) (d) section 36
21. (29)	<i>Migratory Bird Sanctuary Regulations</i> (a) subsection 9(1)
22. (24)	<i>National Historic Parks General Regulations</i> (a) section 10 (b) subsection 11(1) (c) subsection 11(2)
23. (25)	<i>National Parks General Regulations</i> (a) subsection 11(1) (b) subsection 12(1) (c) subsection 18(1) (d) subsection 20(1) (e) subsection 20(2)

## ANNEXE I (suite)

## PARTIE II (suite)

Article*	Dispositions
14. (9)	<i>Règlement sur l'emmagasiner en vrac des liquides inflammables</i> a) article 6
15. (13)	<i>Règlement sur l'exploitation minière dans les réserves indiennes</i> a) paragraphe 5(2) b) paragraphe 6(1)
16. (27)	<i>Règlement sur la faune des parcs nationaux</i> a) paragraphe 15(2)
17. (5)	<i>Règlement sur les forces hydrauliques du Canada</i> a) paragraphe 8(1) b) paragraphe 12(2) c) article 21 d) paragraphe 25(2) e) paragraphe 40(1) f) article 46 g) paragraphe 49(3) h) article 50 i) paragraphe 69(3)
18. (35)	<i>Règlement sur le gibier du parc de Wood-Buffer</i> a) alinéa 56(1)b)
19. (8)	<i>Règlement concernant les immeubles fédéraux</i> a) alinéa 4(2)a)
20. (4)	<i>Règlement sur les installations de déchargement des wagons-citernes à chlore</i> a) paragraphe 6(1) b) paragraphe 6(2)
21. (1)	<i>Règlement sur les installations d'emmagasiner du nitrate d'ammonium</i> a) paragraphe 5(1) b) paragraphe 5(2) c) paragraphe 6(1)
22. (33)	<i>Règlement sur les mines d'uranium et de thorium</i> a) paragraphe 7(1) b) paragraphe 8(1) c) article 9 d) alinéa 17(1)b) e) paragraphe 17(7) f) paragraphe 18(2) g) article 34
23. (20)	<i>Règlement sur les oiseaux migrateurs</i> a) paragraphe 4(1) b) article 33 c) alinéa 35(2)b) d) article 36
24. (22)	<i>Règlement général sur les parcs historiques nationaux</i> a) article 10 b) paragraphe 11(1) c) paragraphe 11(2)

## SCHEDULE I—Concluded

## PART II—Concluded

Item*	Provisions
24. (2)	<i>National Parks Building Regulations</i> (a) subsection 5(1)
25. (5)	<i>National Parks Timber Regulations</i> (a) subsection 4(1)
26. (3)	<i>National Parks Lease and Licence of Occupation Regulations (1991)</i> (a) subsection 18(1)
27. (16)	<i>National Parks Wildlife Regulations</i> (a) subsection 15(2)
28. (30)	<i>Northwest Territories Reindeer Regulations</i> (a) paragraph 5(1)(b)
29. (26)	<i>Public Lands Licensing Order</i> (a) paragraph 3(a) (b) paragraph 3(d) (c) paragraph 3(f)
30. (37)	<i>Sonic and Supersonic Flight Order</i> (a) section 3
31. (36)	<i>Territorial Land Use Regulations</i> (a) paragraph 25(1)(a) (b) paragraph 27(a)
32. (4)	<i>Timber Regulations, 1993</i> (a) subsection 7(3) (b) section 14
33. (22)	<i>Uranium and Thorium Mining Regulations</i> (a) subsection 7(1) (b) subsection 8(1) (c) section 9 (d) paragraph 17(1)(b) (e) subsection 17(7) (f) subsection 18(2) (g) section 34
34. (31)	<i>Wildlife Area Regulations</i> (a) section 4
35. (18)	<i>Wood Buffalo National Park Game Regulations</i> (a) paragraph 56(1)(b)
36. (28)	<i>Yukon Forest Protection Regulations</i> (a) subsection 10(1)
37. (7)	<i>Yukon Timber Regulations</i> (a) section 4 (b) subsection 5(1)

## ANNEXE I (suite)

## PARTIE II (suite)

Article*	Dispositions
25. (23)	<i>Règlement général sur les parcs nationaux</i> a) paragraphe 11(1) b) paragraphe 12(1) c) paragraphe 18(1) d) paragraphe 20(1) e) paragraphe 20(2)
26. (29)	<i>Décret sur les permis relatifs à des terres publiques</i> a) alinéa 3a) b) alinéa 3d) c) alinéa 3f)
27. (14)	<i>Règlement sur le pétrole et le gaz des terres indiennes</i> a) paragraphe 5(2) b) paragraphe 7(1) c) paragraphe 7(5) d) paragraphe 10(4) e) paragraphe 22(1) f) paragraphe 26(2) g) paragraphe 27(4) h) paragraphe 28(4) i) paragraphe 31(1)
28. (36)	<i>Règlement sur la protection des forêts du Yukon</i> a) paragraphe 10(1)
29. (21)	<i>Règlement sur les refuges d'oiseaux migrateurs</i> a) paragraphe 9(1)
30. (28)	<i>Règlement sur les rennes des Territoires du Nord-Ouest</i> a) alinéa 5(1)b)
31. (34)	<i>Règlement sur les réserves de faune</i> a) article 4
32. (10)	<i>Règlement sur la santé des animaux</i> a) alinéa 10(1)a)
33. (2)	<i>Règlement sur le stockage de l'ammoniac anhydre</i> a) article 6
34. (12)	<i>Règlement sur les terrains contigus à des canaux relevant du ministère des A.I. et du N.C.</i> a) article 6 b) alinéa 7a) c) alinéa 7d) d) alinéa 7f)
35. (7)	<i>Règlement fédéral sur le traitement et la destruction des BPC au moyen d'unités mobiles</i> a) article 11 b) paragraphe 12(1)
36. (31)	<i>Règlement sur l'utilisation des terres territoriales</i> a) alinéa 25(1)a) b) alinéa 27a)

\* The italicized number shown in parentheses under the item number is the corresponding item number in the French version of this Schedule.

ANNEXE I (*fin*)PARTIE II (*fin*)SCHEDULE II  
(Section 3)PROVISIONS OF ACTS THAT CONFER POWERS,  
DUTIES OR FUNCTIONS ON THE  
GOVERNOR IN COUNCIL

Item*	Provisions
1. (7)	<i>Arctic Waters Pollution Prevention Act</i> (a) subsection 13(1)
2. (6)	<i>Bridges Act</i> (a) paragraph 8(1)(b)
3. (8)	<i>Canadian Environmental Protection Act</i> (a) subsection 63(1)
4. (1)	<i>Dominion Water Power Act</i> (a) section 9
5. (5)	<i>Fisheries Act</i> (a) section 32 (b) subsection 35(2) (c) paragraphs 36(5)(a) to (e), where the regulation made pursuant to those paragraphs contains a provision that limits the application of the regulation to a named site (d) subsection 37(2)
6. (2)	<i>Indian Act</i> (a) subsection 35(1) (b) subsection 39(1)
7. (3)	<i>National Energy Board Act</i> (a) section 52 (b) subsection 58.16(1)
8. (4)	<i>National Parks Act</i> (a) paragraph 6(2)(c) (b) subsection 8.3(3)
9. (9)	<i>National Transportation Act, 1987</i> (a) subsection 149(3) (b) subsection 149(7) (c) subsection 165(2)

\* The italicized number shown in parentheses under the item number is the corresponding item number in the French version of this Schedule.

Article*	Dispositions
37. (30)	<i>Ordonnance sur le vol sonique et supersonique</i>  a) article 3

\* Le numéro en italique qui figure entre parenthèses sous le numéro d'article correspond au numéro d'article dans la version anglaise.

ANNEXE II  
(article 3)DISPOSITIONS LÉGISLATIVES CONFÉRANT  
DES ATTRIBUTIONS AU GOUVERNEUR EN CONSEIL

Article*	Dispositions
1. (4)	<i>Loi sur les forces hydrauliques du Canada</i>  a) article 9
2. (6)	<i>Loi sur les Indiens</i>  a) paragraphe 35(1) b) paragraphe 39(1)
3. (7)	<i>Loi sur l'Office national de l'énergie</i>  a) article 52 b) paragraphe 58.16(1)
4. (8)	<i>Loi sur les parcs nationaux</i>  a) alinéa 6(2)c) b) paragraphe 8.3(3)
5. (5)	<i>Loi sur les pêches</i>  a) article 32 b) paragraphe 35(2) c) alinéas 36(5)a) à e), dans le cas où le règlement pris en vertu de ces alinéas comprend une disposition qui en restreint le champ d'application à un emplacement qui y est nommé d) paragraphe 37(2)
6. (2)	<i>Loi sur les ponts</i>  a) alinéa 8(1)b)
7. (1)	<i>Loi sur la prévention de la pollution dans les eaux arctiques</i>  a) paragraphe 13(1)
8. (3)	<i>Loi canadienne sur la protection de l'environnement</i>  a) paragraphe 63(1)
9. (9)	<i>Loi de 1987 sur les transports nationaux</i>  a) paragraphe 149(3) b) paragraphe 149(7) c) paragraphe 165(2)

\* Le numéro en italique qui figure entre parenthèses sous le numéro d'article correspond au numéro d'article dans la version anglaise.



**REGULATORY IMPACT  
ANALYSIS STATEMENT**

*(This statement is not part of the Regulations.)*

**Description**

The *Canadian Environmental Assessment Act* (CEAA) will require federal authorities to subject certain projects to environmental assessments (EAs) before initiating, funding, granting land, or issuing regulatory approvals for them. CEAA will replace the vague *Environmental Assessment Review Process Guidelines Order* (EARP), which has prompted numerous court challenges, high costs and long delays. CEAA will redress these problems by providing greater legal certainty and the introduction of more efficient provisions, such as class screening, comprehensive study, mediation and federal-provincial harmonization agreements.

Four regulations are needed to make CEAA work: the *Exclusion List Regulations*, the *Inclusion List Regulations*, the *Law List Regulations* and the *Comprehensive Study List Regulations*. The first three regulations determine CEAA's scope by specifying the projects subject to the Act and the federal permits or approvals that trigger an EA. The *Comprehensive Study List* (CSL) supplies greater certainty and efficiency by identifying which major projects will automatically be assessed more extensively.

This Regulatory Impact Analysis Statement focuses on the refinements to the four draft regulations prepublished in the *Canada Gazette* Part I on September 18, 1993. The refined regulations are based on criteria created by the multi-stakeholder Regulatory Advisory Committee (RAC), expert advice by federal departments and improvements proposed during the 90-day public comment period. These Regulations will take effect when CEAA comes into force—probably no earlier than three months after these Regulations appear in the *Canada Gazette* Part II. This timing will ensure an orderly transition from EARP to CEAA.

CEAA's two-part definition of "project" covers physical works and activities. Physical activities on the Inclusion List and physical works, except those on the Exclusion List, are projects under CEAA. The Exclusion List exempts from EAs projects with insignificant environmental effects. The 60 standardized and more precise provisions on the refined Exclusion List supersede the 49-item prepublished list. The Inclusion List prescribes the physical activities, covered by the Law List and a few items on the CSL, that are projects requiring an EA. The simplified 79-item revised Inclusion List is needed to activate corresponding Law List and CSL provisions.

**RÉSUMÉ DE L'ÉTUDE D'IMPACT  
DE LA RÉGLEMENTATION**

*(Ce résumé ne fait pas partie des règlements.)*

**Description**

La *Loi canadienne sur l'évaluation environnementale* (LCEE) obligera les autorités fédérales à soumettre certains projets à une évaluation environnementale avant de les entreprendre, de les financer, de céder des terrains ou encore de délivrer des autorisations pour leur réalisation. La LCEE va remplacer le *Décret sur les lignes directrices visant le processus d'évaluation et d'examen en matière d'environnement* (PEEE), dont l'ambiguïté a causé une multitude de contestations judiciaires, ainsi que des dépenses et retards considérables. La LCEE va résoudre ces problèmes en apportant une plus grande certitude juridique, grâce notamment à l'introduction de dispositions plus efficaces, comme l'examen préalable par catégories, l'étude approfondie, la médiation et les ententes d'harmonisation fédérales-provinciales.

Quatre règlements sont nécessaires pour l'application efficace de la LCEE, soit : Le *Règlement sur la liste d'exclusion*, le *Règlement sur la liste d'inclusion*, le *Règlement sur les dispositions législatives et réglementaires désignées* et le *Règlement sur la liste d'étude approfondie*. Les trois premiers déterminent la portée de la Loi en spécifiant les types de projets qui lui sont assujettis et les autorisations et permis fédéraux qui déclenchent une évaluation environnementale. La Liste d'étude approfondie (LEA) donne plus de certitude et d'efficacité en précisant quels types de grands projets nécessiteront automatiquement une étude plus poussée.

Le présent Résumé de l'étude d'impact de la réglementation brosse un tableau des améliorations qui ont été apportées aux quatre avant-projets de règlements prépubliés dans la *Gazette du Canada* Partie I le 18 septembre 1993. Les règlements modifiés se basent sur les critères fixés par le Comité consultatif de la réglementation (CCR), qui regroupe des intervenants multiples, sur les avis d'experts présentés par les ministères fédéraux et sur les améliorations proposées au cours de la période d'examen public de 90 jours. Les règlements prendront effet le jour de l'entrée en vigueur de la Loi—soit au moins trois mois probablement après la publication des règlements dans la *Gazette du Canada* Partie II, ce qui facilitera la transition entre le décret PEEE et la LCEE.

La définition du terme « projet » dans la LCEE couvre à la fois les ouvrages et les activités concrètes. Les activités concrètes énumérées dans la Liste d'inclusion et les ouvrages, sauf ceux de la Liste d'exclusion, sont des projets assujettis à la LCEE. La Liste d'exclusion exempte de l'évaluation environnementale les projets ayant des effets environnementaux négligeables. Les 60 dispositions normalisées et mieux circonscrites de la Liste d'exclusion améliorée remplacent la version prépubliée de la Liste, qui comportait 49 articles. Dans la Liste d'inclusion, on trouve l'énumération des activités concrètes couvertes par le *Règlement sur les dispositions législatives et réglementaires désignées* (Liste des dispositions) et, pour certains articles, par la LEA, qui constituent des projets nécessitant une évaluation environnementale. Avec ses 79 articles, la Liste d'inclusion révisée et simplifiée est nécessaire pour donner effet aux dispositions correspondantes de la Liste des dispositions et de la LEA.

The Law List itemizes the statutory and regulatory project approvals that trigger an EA before a project proceeds. The 190-item enhanced Law List includes all but three prepublished provisions and 48 additions almost exclusively drawn from RAC's consensus recommendations. The Law List provides certainty to regulators and proponents alike on which project approvals require an EA.

The CSL allows major projects to be fully assessed in a more predictable and timely manner. The 32-provision revised CSL improves on its prepublished version by adopting more thresholds proposed by RAC.

#### *Alternatives*

Since these four regulations are essential to implement CEAA as passed by Parliament, the alternatives considered involve the provisions of these regulations. Possible provisions for each regulation were assessed in terms of their consistency with RAC's criteria and their advisability as judged by experts in government departments. This assessment yielded the carefully balanced package of provisions contained in the four refined regulations.

#### *Benefits and Costs*

As stated in the Part I RIAS, the benefits and costs of these Regulations accrue to all of Canada. That RIAS also reported that the best available estimate of the net present value of the prepublished regulations would be about \$35M with a 90% probability that the net present value would exceed \$7M. A review of the improved regulatory package suggests that it is unlikely to reduce the net present value and could in fact increase it. Available information does not indicate that the regulations would have an adverse effect on competitiveness or unduly affect small business. A program to monitor CEAA's actual impact in these areas will be implemented to ensure that the Act is performing as expected.

#### *Consultation*

Early notice of the regulations was provided through the 1994 Federal Regulatory Plan, proposals EC-21 to 24, and in the 1993 plan. Their prepublication in the *Canada Gazette* Part I on September 18, 1993 subjected the draft regulations to public review for a 90-day period. The multi-stakeholder RAC has played a central role by establishing selection criteria for the provisions as well as by proposing the inclusion of specific provisions on the lists. The refined regulations comply with RAC's criteria, include many of its recommendations and are widely supported by government departments. The monitoring program will address residual concerns about the possible adverse effects of the regulations.

La Liste des dispositions énumère, article par article, les autorisations de projets législatives et réglementaires qui déclenchent une évaluation environnementale avant que le projet ne se mette en branle. Avec ses 190 articles, la Liste des dispositions améliorée reprend la totalité, sauf trois, des dispositions prépubliées et en ajoute 48 nouvelles, qui proviennent presque toutes exclusivement des recommandations consensuelles du CCR. La Liste des dispositions offre tant aux organismes de réglementation qu'aux promoteurs une plus grande certitude quant aux projets qui nécessitent une évaluation environnementale.

La LEA précise les projets qui doivent automatiquement être soumis à une évaluation plus poussée. Elle permet une évaluation plus complète, prévisible et rapide des grands projets. La LEA révisée, avec ses 32 articles, constitue par rapport à la Liste prépubliée une version améliorée, qui adopte un plus grand nombre de seuils proposés par le CCR.

#### *Solutions envisagées*

Comme les quatre règlements sont essentiels à la mise en oeuvre de la LCEE adoptée par le Parlement, les solutions de rechange envisagées portaient sur les dispositions de ces règlements. Les dispositions éventuelles de chaque règlement ont été évaluées sous l'angle de leur conformité aux critères du CCR et de leur bien-fondé compte tenu des avis exprimés par les experts des ministères fédéraux. Il en est résulté l'ensemble minutieusement équilibré des dispositions contenues dans les quatre règlements améliorés.

#### *Avantages et coûts*

Comme l'indiquait le RÉIR de la Partie I, les quatre règlements présentent des avantages et des coûts pour tous les Canadiens. Ce RÉIR donnait aussi comme meilleure estimation possible de la valeur nette des règlements prépubliés le montant approximatif de 35 millions de dollars, avec un taux de probabilité de 90 % que la valeur nette actuelle dépasse les 7 millions de dollars. Après examen de la réglementation améliorée, on peut supposer qu'il est improbable que cette valeur nette diminue du fait des modifications apportées et qu'au contraire, elle pourrait vraisemblablement augmenter. D'après les renseignements disponibles, la réglementation ne devrait pas avoir d'effet négatif sur la compétitivité ni nuire indûment à la petite entreprise. Un programme de suivi de l'impact réel de la LCEE à cet égard sera mis sur pied afin de vérifier si la Loi a l'effet escompté.

#### *Consultations*

Un préavis de la réglementation a été donné dans le document Projets de réglementation fédérale de 1994, aux numéros EC-21 à 24, ainsi que dans le document de 1993. Quand ils ont été prépubliés dans la *Gazette du Canada* Partie I, le 18 septembre 1993, les quatre avant-projets de règlements ont été soumis à une période d'examen public de 90 jours. Le CCR multi-intervenants a joué un rôle de premier plan en établissant les critères de sélection des dispositions ainsi qu'en proposant l'ajout de dispositions précises. Les règlements améliorés sont conformes aux critères du CCR, donnent suite à bon nombre de ses recommandations et bénéficient d'un large appui parmi les ministères fédéraux. Le programme de surveillance servira à aplanir les difficultés qui resteront concernant les éventuels effets négatifs de la réglementation.



*Compliance and Enforcement*

CEAA empowers the Minister of the Environment to provide education to industry, departments, and other groups on their rights and duties under the Act and four regulations. Such education is an essential means to increase understanding and thus voluntary compliance with the reformed EA regime for federal projects. Education sessions will be staged across Canada when the new regime comes into force and follow-up sessions will be provided where and when required.

*Contact*

Mr. R.G. Connelly  
Vice-President, Policy and Regulatory Affairs  
Federal Environmental Assessment Review Office  
Fontaine Building  
14th Floor  
200 Sacré-Coeur Boulevard  
Hull, Quebec  
K1A 0H3  
(819) 997-2711

*Respect et exécution*

La LCÉE habilite le ministre de l'Environnement à renseigner l'industrie, les ministères et d'autres groupes sur les droits et obligations que leur confèrent la Loi et les quatre règlements. Cette éducation constitue un moyen essentiel pour accroître la compréhension et, partant, l'observation volontaire du régime réformé d'évaluation environnementale applicable aux projets fédéraux. Des séances d'éducation seront organisées partout au Canada dès l'entrée en vigueur du nouveau régime, et des séances de suivi auront lieu aux endroits et aux moments opportuns.

*Personne-ressource*

M. R.G. Connelly  
Vice-président, Politiques et affaires réglementaires  
Bureau fédéral d'examen des évaluations environnementales  
Immeuble Fontaine  
14<sup>e</sup> étage  
200, boul. Sacré-Coeur  
Hull (Québec)  
K1A 0H3  
(819) 997-2711



Registration  
SOR/94-637 7 October, 1994

# CANADIAN ENVIRONMENTAL ASSESSMENT ACT

## Inclusion List Regulations

P.C. 1994-1686 7 October, 1994

His Excellency the Governor General in Council, on the recommendation of the Minister of the Environment, pursuant to paragraph 59(b) of the Canadian Environmental Assessment Act\*, is pleased hereby to make the annexed Regulations prescribing physical activities and classes of physical activities not relating to physical works that may require an environmental assessment, effective on the day on which section 59 of the Canadian Environmental Assessment Act comes into force.

### REGULATIONS PRESCRIBING PHYSICAL ACTIVITIES AND CLASSES OF PHYSICAL ACTIVITIES NOT RELATING TO PHYSICAL WORKS THAT MAY REQUIRE AN ENVIRONMENTAL ASSESSMENT

#### Short Title

1. These Regulations may be cited as the *Inclusion List Regulations*.

#### Interpretation

2. In these Regulations,

"borrow site" means a site from which earth material is extracted in order to obtain topsoil, sand, gravel, rock, crushed stone, building stone, or other mineral aggregate for use elsewhere; (*site d'emprunt*)

"historic canal" means a historic canal set out in column I of an item of Schedule I to the *Historic Canals Regulations*; (*canal historique*)

"Indian reserve" means a reserve as defined in subsection 2(1) of the *Indian Act*; (*réserve indienne*)

"military weapons platform" means a vehicle, ship or aircraft that is designed for the operation of a military weapon; (*plate-forme d'armes militaires*)

"national park" means

(a) a park described in Schedule I to the *National Parks Act*, and

(b) a park established pursuant to a federal-provincial agreement that is under the responsibility of the Minister of Communications and is not described in Schedule I to the *National Parks Act*; (*parc national*)

"national park reserve" means a reserve established under *An Act to amend the National Parks Act and to amend An Act to amend the National Parks Act*, chapter 48 of the Statutes

Enregistrement  
DORS/94-637 7 octobre 1994

# LOI CANADIENNE SUR L'ÉVALUATION ENVIRONNEMENTALE

## Règlement sur la liste d'inclusion

C.P. 1994-1686 7 octobre 1994

Sur recommandation de la ministre de l'Environnement et en vertu de l'alinéa 59b) de la Loi canadienne sur l'évaluation environnementale\*, il plaît à Son Excellence le Gouverneur général en conseil de prendre le Règlement désignant les activités concrètes et les catégories d'activités concrètes non liées à des ouvrages et pouvant nécessiter une évaluation environnementale, ci-après, lequel entre en vigueur à la date d'entrée en vigueur de l'article 59 de la Loi canadienne sur l'évaluation environnementale.

### RÈGLEMENT DÉSIGNANT LES ACTIVITÉS CONCRÈTES ET LES CATÉGORIES D'ACTIVITÉS CONCRÈTES NON LIÉES À DES OUVRAGES ET POUVANT NECESSITER UNE ÉVALUATION ENVIRONNEMENTALE

#### Titre abrégé

1. *Règlement sur la liste d'inclusion.*

#### Définitions

2. Les définitions qui suivent s'appliquent au présent règlement.

« canal historique » Canal historique mentionné à la colonne I de l'annexe I du *Règlement sur les canaux historiques*. (*historic canal*)

« parc national »

a) Parc décrit à l'annexe I de la *Loi sur les parcs nationaux*;

b) parc érigé conformément à un accord fédéral-provincial et placé sous l'autorité du ministre des Communications, mais non décrit à cette annexe. (*national park*)

« plan d'eau » Tout plan d'eau, notamment les canaux, réservoirs, terres humides et océans, jusqu'à la laisse des hautes eaux. La présente définition ne vise pas les étangs de traitement des eaux usées et les étangs de résidus miniers. (*water body*)

« plate-forme d'armes militaires » Véhicule, navire ou aéronef conçu pour l'utilisation d'armes militaires. (*military weapons platform*)

« quantité réglementaire » ou « QR » Quantité d'un isotope radioactif d'un élément qui est :

a) soit indiquée à la partie I de l'annexe I du *Règlement sur le contrôle de l'énergie atomique*;

b) soit calculée conformément à la partie II de cette annexe. (*scheduled quantity or SQ*)

\* S.C. 1992, c. 37

\* L.C. 1992, ch. 37

of Canada, 1988, and the lands described in the schedule to the *Mingan Archipelago National Park Act*; (*réserve foncière*)

"prescribed substances" means prescribed substances as defined in section 2 of the *Atomic Energy Control Act*; (*substances réglementées*)

"scheduled quantity" or "SQ" means that quantity of a radioactive isotope of any element that is

(a) set out in Part I of Schedule I to the *Atomic Energy Control Regulations*, or

(b) calculated in accordance with Part II of that Schedule; (*quantité réglementaire* ou *QR*)

"water body" means any water body, including a canal, reservoir, an ocean, and a wetland, up to the high-water mark, but does not include a sewage or waste treatment lagoon or a mine tailings pond; (*plan d'eau*)

"wetland" means a swamp, marsh, bog, fen or other land that is covered by water during at least three consecutive months of the year. (*terres humides*)

#### General

3. The physical activities and classes of physical activities not relating to physical works set out in the schedule are prescribed for the purpose of the definition "project" in subsection 2(1) of the *Canadian Environmental Assessment Act*.

#### SCHEDULE (Section 3)

#### PHYSICAL ACTIVITIES AND CLASSES OF PHYSICAL ACTIVITIES NOT RELATING TO PHYSICAL WORKS

#### PART I

#### NATIONAL PARKS AND PROTECTED AREAS

1. Physical activities for the purpose of the provision of basic user facilities in wilderness areas or access by air to remote parts of such areas that require an authorization under paragraph 5(10)(c) or (e) of the *National Parks Act*.

2. The removal of natural objects for construction purposes within a national park that requires a permit under subsection 11(1) of the *National Parks General Regulations*, where the removal involves a new borrow site, the expansion of an existing borrow site, the reopening of an inactive borrow site, an increase in the amount of extraction, new extraction or the extraction of materials from aquatic locations.

3. The taking of water for business water supply purposes that requires a permit under subsection 18(1) of the *National Parks General Regulations*.

4. The supplying of water that requires an agreement under section 20 of the *National Parks General Regulations*.

« réserve foncière » Réserve constituée en vertu de la *Loi modifiant la Loi sur les parcs nationaux et la Loi modifiant la Loi sur les parcs nationaux*, chapitre 48 des Lois du Canada (1988), et les terres définies à l'annexe de la *Loi sur le parc national de l'archipel de Mingan*. (*national park reserve*)

« réserve indienne » S'entend au sens de « réserve » au paragraphe 2(1) de la *Loi sur les Indiens*. (*Indian reserve*)

« site d'emprunt » Site duquel des matières de la terre sont extraites en vue d'obtenir de la terre végétale, du sable, du gravier, des roches, de la pierre concassée, des pierres à bâtir ou tout autre agrégat minéral à utiliser ailleurs qu'au site. (*borrow site*)

« substances réglementées » S'entend au sens de l'article 2 de la *Loi sur le contrôle de l'énergie atomique*. (*prescribed substances*)

« terres humides » Marécages, marais ou autres terres qui sont couverts d'eau durant au moins trois mois consécutifs au cours de l'année. (*wetland*)

#### Dispositions générales

3. Pour l'application de la définition de « projet », au paragraphe 2(1) de la *Loi canadienne sur l'évaluation environnementale*, les activités concrètes et les catégories d'activités concrètes non liées à des ouvrages sont celles énumérées à l'annexe.

#### ANNEXE (article 3)

#### ACTIVITÉS CONCRÈTES ET CATÉGORIES D'ACTIVITÉS CONCRÈTES NON LIÉES À DES OUVRAGES

#### PARTIE I

#### PARCS NATIONAUX ET ZONES PROTÉGÉES

1. Les activités concrètes visant à fournir des services élémentaires aux usagers dans les réserves intégrales ou à assurer l'accès par air des régions éloignées de ces réserves intégrales, lesquelles activités nécessitent l'autorisation prévue aux alinéas 5(10)c) ou e) de la *Loi sur les parcs nationaux*.

2. L'utilisation de matières naturelles à des fins de construction dans un parc national qui nécessite le permis prévu au paragraphe 11(1) du *Règlement général sur les parcs nationaux*, lorsque l'utilisation vise un nouveau site d'emprunt, l'agrandissement d'un site d'emprunt existant, la réouverture d'un site d'emprunt inactif, l'augmentation de la quantité de matières extraites, de nouvelles activités d'extraction ou l'extraction de matières d'endroits aquatiques.

3. Le puisage d'eau à des fins commerciales qui nécessite le permis prévu au paragraphe 18(1) du *Règlement général sur les parcs nationaux*.

4. La fourniture d'eau qui nécessite l'entente prévue à l'article 20 du *Règlement général sur les parcs nationaux*.



## SCHEDULE—Continued

5. The culling from a population of a wildlife species or the destruction of an entire population of a wildlife species that requires an authorization under subsection 15(2) of the *National Parks Wildlife Regulations*.

6. The occupation of public lands that requires a licence of occupation under subsection 18(1) of the *National Parks Lease and Licence of Occupation Regulations* (1991).

7. The taking of water for business water supply purposes that requires a permit under section 10 of the *National Historic Parks General Regulations*.

8. The supplying of water that requires an agreement under section 11 of the *National Historic Parks General Regulations*.

9. Physical activities relating to the construction, expansion or modification of a golf course or ski hill in a national park or a national park reserve.

10. The taking or destroying of game that requires an authorization under paragraph 56(1)(b) of the *Wood Buffalo National Park Game Regulations*.

11. The cutting and removal of dead, diseased or green timber that requires a permit under subsection 4(1) of the *National Parks Timber Regulations*.

12. The drawing of water from a canal for agricultural or industrial, other than water power, purposes that requires a licence for the occupation of canal lands under paragraph 7(d) of the *I.A. and N.D. Canal Land Regulations*.

13. The discharge into a canal of water drainage or effluents that requires a licence for the occupation of canal lands under paragraph 7(f) of the *I.A. and N.D. Canal Land Regulations*.

## PART II

## OIL AND GAS PROJECTS

14. Physical activities relating to the abandonment of the operation of an international power line or any interprovincial power line that requires leave under subsection 58.34(2) of the *National Energy Board Act*.

15. Physical activities relating to the abandonment of the operation of a pipeline that requires leave under paragraph 74(1)(d) of the *National Energy Board Act*.

16. The working of, or prospecting for, mines or minerals that requires leave under subsection 81(4) of the *National Energy Board Act*.

17. Excavation using power-operated equipment or explosives at a distance of less than 30 m from a pipeline, where the excavation requires leave under subsection 112(1) of the *National Energy Board Act*.

## ANNEXE (suite)

5. L'élimination de façon sélective dans une population d'une espèce faunique ou la destruction d'une population entière d'une espèce faunique, qui nécessitent l'autorisation prévue au paragraphe 15(2) du *Règlement sur la faune des parcs nationaux*.

6. L'occupation des terres domaniales qui nécessite le permis d'occupation prévu au paragraphe 18(1) du *Règlement de 1991 sur les baux et les permis d'occupation dans les parcs nationaux*.

7. L'approvisionnement en eau à des fins commerciales qui nécessite le permis prévu à l'article 10 du *Règlement général sur les parcs historiques nationaux*.

8. L'approvisionnement en eau qui nécessite l'entente prévue à l'article 11 du *Règlement général sur les parcs historiques nationaux*.

9. Les activités concrètes liées à la construction, l'agrandissement ou la modification d'un terrain de golf ou d'une pente de ski dans un parc national ou une réserve foncière.

10. La prise ou la mise à mort du gibier qui nécessite l'autorisation prévue à l'alinéa 56(1)b) du *Règlement sur le gibier du parc de Wood-Buffer*.

11. La coupe et l'enlèvement de bois mort, de bois atteint d'une maladie ou de bois vert qui nécessitent le permis prévu au paragraphe 4(1) du *Règlement sur le bois dans les parcs nationaux*.

12. Le fait de tirer de l'eau d'un canal, à des fins agricoles ou industrielles, à l'exclusion de la production d'électricité, qui nécessite la licence d'occupation d'un terrain contigu à un canal prévue à l'alinéa 7d) du *Règlement sur les terrains contigus à des canaux relevant du ministère des A.I. et du N.C.*

13. Le déchargement dans un canal des eaux de ruissellement ou d'égout qui nécessite la licence d'occupation d'un terrain contigu à un canal prévue à l'alinéa 7f) du *Règlement sur les terrains contigus à des canaux relevant du ministère des A.I. et du N.C.*

## PARTIE II

## PROJETS PÉTROLIERS ET GAZIERS

14. Les activités concrètes liées à la cessation de l'exploitation d'une ligne internationale ou de toute ligne interprovinciale, qui nécessitent l'autorisation prévue au paragraphe 58.34(2) de la *Loi sur l'Office national de l'énergie*.

15. Les activités concrètes liées à la cessation de l'exploitation d'un pipeline qui nécessitent l'autorisation prévue à l'alinéa 74(1)d) de la *Loi sur l'Office national de l'énergie*.

16. La prospection ou l'exploitation de gisements qui nécessitent l'autorisation expresse prévue au paragraphe 81(4) de la *Loi sur l'Office national de l'énergie*.

17. Les travaux d'excavation, avec de l'équipement motorisé ou des explosifs, dans un périmètre de 30 m autour d'un pipeline, qui nécessitent l'autorisation prévue au paragraphe 112(1) de la *Loi sur l'Office national de l'énergie*.



## SCHEDULE—Continued

18. Physical activities relating to the exploration for, or the production of, oil or gas that require an authorization under paragraph 5(1)(b) of the *Canada Oil and Gas Operations Act*.

19. Physical activities relating to the approval of a development plan under subsection 5.1(4) of the *Canada Oil and Gas Operations Act*.

## PART III

## NUCLEAR AND RELATED FACILITIES

20. The abandonment or disposal of a prescribed substance, other than uranium or thorium, in a quantity that exceeds the scheduled quantity in respect of the prescribed substance, where

(a) the prescribed substance is readily removable from and is not distributed throughout a substance, material, device or equipment; or

(b) in the case of a prescribed substance that is distributed throughout and is not readily removable from the substance, material, device or equipment, the concentration of the prescribed substance exceeds

- (i) 1 SQ/kg of solid material,
- (ii) 0.01 SQ/L of liquid, or
- (iii) 0.001 SQ/m<sup>3</sup> of gas.

21. The abandonment or disposal of a substance, material, device or equipment that contains more than 10 kg of uranium or thorium, where the concentration of the uranium or thorium exceeds 0.05 per cent by weight.

22. The abandonment or disposal of a substance, material, device or equipment whose surface is contaminated with a prescribed substance that is not readily removable from the surface, where

- (a) the contamination exceeds 3 Bq/cm<sup>2</sup> averaged over a surface of not more than 100 cm<sup>2</sup>; and
- (b) the dose rate at the surface of the substance, material, device or equipment exceeds 1 µSv/h.

23. Physical activities relating to the use of a prescribed substance in nuclear medicine where the activity of the prescribed substance used is more than 10 GBq.

24. Physical activities relating to the use of a prescribed substance as a tracer in an industrial facility where the prescribed substance is released into the environment in a quantity that exceeds the scheduled quantity in respect of the prescribed substance, and

(a) the prescribed substance is readily removable from and is not distributed throughout a substance, material, device or equipment; or

(b) in the case of a prescribed substance that is distributed throughout and is not readily removable from the substance, material, device or equipment, the concentration of the prescribed substance exceeds

- (i) 1 SQ/kg of solid material,

## ANNEXE (suite)

18. Les activités concrètes liées à la recherche ou à la production du pétrole ou du gaz, qui nécessitent l'autorisation prévue à l'alinéa 5(1)b) de la *Loi sur les opérations pétrolières au Canada*.

19. Les activités concrètes liées à l'approbation d'un plan de mise en valeur prévue au paragraphe 5.1(4) de la *Loi sur les opérations pétrolières au Canada*.

## PARTIE III

ÉTABLISSEMENTS NUCLÉAIRES ET  
ÉTABLISSEMENTS CONNEXES

20. L'abandon ou la disposition d'une substance réglementée, autre que l'uranium ou le thorium, en une quantité supérieure à la quantité réglementaire applicable, lorsqu'elle :

- a) s'enlève facilement d'une substance, d'une matière, d'un dispositif ou d'un équipement et n'est pas distribuée dans ceux-ci;
- b) dans le cas d'une substance réglementée qui est distribuée dans une substance, une matière, un dispositif ou un équipement et qui ne s'enlève pas facilement de ceux-ci, a une concentration supérieure, selon le cas, à :
  - (i) 1 QR/kg de matière solide,
  - (ii) 0,01 QR/L de liquide,
  - (iii) 0,001 QR/m<sup>3</sup> de gaz.

21. L'abandon ou la disposition d'une substance, d'une matière, d'un dispositif ou d'un équipement qui renferme plus de 10 kg d'uranium ou de thorium, lorsque la concentration d'uranium ou de thorium est supérieure à 0,05 pour cent en poids.

22. L'abandon ou la disposition d'une substance, d'une matière, d'un dispositif ou d'un équipement dont la surface est contaminée par une substance réglementée qui ne s'enlève pas facilement de la surface, lorsque, à la fois :

- a) la contamination est supérieure à 3 Bq/cm<sup>2</sup> en moyenne sur une surface d'au plus 100 cm<sup>2</sup>;
- b) le taux de dose à la surface de la substance, de la matière, du dispositif ou de l'équipement est supérieur à 1 µSv/h.

23. Les activités concrètes liées à l'utilisation en médecine nucléaire d'une substance réglementée dont l'activité dépasse 10 GBq.

24. Les activités concrètes liées à l'utilisation d'une substance réglementée comme traceur dans une installation industrielle lorsque cette substance est rejetée dans l'environnement en une quantité supérieure à la quantité réglementaire applicable et qu'elle :

- a) s'enlève facilement d'une substance, d'une matière, d'un dispositif ou d'un équipement et n'est pas distribuée dans ceux-ci;
- b) dans le cas d'une substance réglementée qui est distribuée dans une substance, une matière, un dispositif ou un équipement et qui ne s'enlève pas facilement de ceux-ci, a une concentration supérieure, selon le cas, à :
  - (i) 1 QR/kg de matière solide,

## SCHEDULE—Continued

- (ii) 0.01 SQ/L of liquid, or  
(iii) 0.001 SQ/m<sup>3</sup> of gas.

## PART IV

## DEFENCE

25. The testing of weapons in an area other than those training areas, test establishments or ranges established by and under the authority of the Minister of National Defence for the testing of weapons prior to the coming into force of these Regulations.

26. The incineration, disposal or recycling of the toxic chemicals and their precursors set out in Schedules 1 to 3 to the Convention on the Prohibition of the Development, Production, Stockpiling and Use of Chemical Weapons and on their Destruction (United Nations), done at Paris, January 13, 1993.

27. The incineration, disposal or recycling of

- (a) the microbial or other biological agents or toxins referred to in Item 1 of Article I of the Convention on the Prohibition of the Development, Production and Stockpiling of Bacteriological (Biological) and Toxin Weapons and on their Destruction (United Nations), in force March 26, 1975; and  
(b) the weapons, equipment or means of delivery designed to use the agents or toxins referred to in paragraph (a).

28. The low-level flying of military fixed-wing jet aircraft as part of a training program at an altitude below 330 m above ground level on a route or in an area other than a route or an area established by or under the authority of the Minister of National Defence or the Chief of the Defence Staff for low-level flying training prior to the coming into force of these Regulations, where the number of flying hours planned is in excess of 25 hours in a calendar year.

29. Naval exercises involving more than 15 vessels, including auxiliary and foreign vessels.

30. Military field exercises and military field training involving more than 40 vehicles and 275 persons in an area other than a training area or range established by or under the authority of the Minister of National Defence before the coming into force of these Regulations.

31. The taking or destroying of wildlife as part of a wildlife management program or the cutting or removal of timber on land administered by or under the authority of the Minister of National Defence.

32. Physical activities relating to the testing, construction, operation or disposal of a military weapons platform.

## ANNEXE (suite)

- (ii) 0,01 QR/L de liquide,  
(iii) 0,001 QR/m<sup>3</sup> de gaz.

## PARTIE IV

## DÉFENSE

25. La mise à l'essai d'armes dans toute zone, autre qu'un secteur d'entraînement, un centre d'essai et d'expérimentation ou un champ de tir établis pour la mise à l'essai d'armes avant la date d'entrée en vigueur du présent règlement par le ministre de la Défense nationale ou sous son autorité.

26. L'incinération, l'élimination ou le recyclage des produits chimiques toxiques et de leurs précurseurs visés aux tableaux 1 à 3 de la Convention sur l'interdiction de la mise au point, de la fabrication, du stockage et de l'emploi des armes chimiques et sur leur destruction (Nations Unies), faite le 13 janvier 1993 à Paris.

27. L'incinération, l'élimination ou le recyclage des éléments suivants :

- a) les agents microbiologiques ou autres agents biologiques, ainsi que les toxines, visés au paragraphe 1) de l'article premier de la Convention sur l'interdiction de la mise au point, de la fabrication et du stockage des armes bactériologiques (biologiques) ou à toxines et sur leur destruction (Nations Unies), qui est entrée en vigueur le 26 mars 1975;  
b) les armes, l'équipement et les vecteurs destinés à l'emploi de ces agents ou toxines.

28. L'exécution de vols à basse altitude au moyen d'avions à réaction militaires à voilure fixe, pour des programmes d'entraînement, lorsque les vols se déroulent à une altitude inférieure à 330 m au-dessus du niveau du sol sur toute route ou dans toute zone, autre que les routes ou zones établies comme routes ou zones d'entraînement au vol à basse altitude avant la date d'entrée en vigueur du présent règlement par le ministre de la Défense nationale ou le chef d'état-major de la défense, ou sous son autorité, lorsque le nombre d'heures de vol projetées dépasse 25 heures par année civile.

29. Les manoeuvres navales auxquelles participent plus de 15 bâtiments, y compris des bâtiments auxiliaires et des bâtiments étrangers.

30. Les manoeuvres militaires et l'entraînement militaire en campagne auxquels participent plus de 275 personnes et 40 véhicules et qui se déroulent dans toute zone, autre qu'un secteur d'entraînement ou un champ de tir établis avant la date d'entrée en vigueur du présent règlement par le ministre de la Défense nationale ou sous son autorité.

31. La prise ou la destruction d'animaux sauvages dans le cadre d'un programme de gestion de la faune, ou la coupe ou l'enlèvement du bois sur des terres gérées par le ministre de la Défense nationale ou sous son autorité.

32. Les activités concrètes liées à la mise à l'essai, à la construction, à l'exploitation ou à la disposition d'une plateforme d'armes militaires.



## SCHEDULE—Continued

## PART V

## TRANSPORTATION

33. Physical activities relating to the abandonment of the operation of freight operations on a railway line that requires an order under section 162, subsection 165(1) or section 166 of the *National Transportation Act, 1987*.

34. The construction of drainage or laying of pipes that requires an order or permit under subsection 212(1) or (2) of the *Railway Act*.

35. The operation of an aircraft in supersonic flight on a route or in an area not designated by or under the authority of the Minister of Transport that requires an authorization under section 3 of the *Sonic and Supersonic Flight Order*.

36. Dredge or fill operations in a navigation channel of a historic canal or other navigable water for the purpose of ensuring the navigability of the historic canal or other navigable water.

37. The removal or destruction of a wreck or other thing under section 16 of the *Navigable Waters Protection Act*.

38. The removal of any vessel or other thing that is wrecked, sunk, partially sunk, lying ashore or grounded in any navigable water in Canada where the removal requires an authorization under section 20 of the *Navigable Waters Protection Act*.

39. The destruction or removal of a ship or any cargo or other material on board a ship that is stranded, wrecked, sunk or abandoned, where the destruction or removal is ordered by the Governor in Council under subsection 13(1) of the *Arctic Waters Pollution Prevention Act*.

## PART VI

## WASTE MANAGEMENT

40. The dumping of any substance for which a permit is required under Part VI of the *Canadian Environmental Protection Act*.

41. The operation or testing of a mobile PCB destruction system or mobile PCB treatment system under section 11 or subsection 12(1) of the *Federal Mobile PCB Treatment and Destruction Regulations*.

## ANNEXE (suite)

## PARTIE V

## TRANSPORTS

33. Les activités concrètes liées à l'abandon de l'exploitation des opérations de transport de marchandises sur une ligne de chemin de fer, lesquelles activités nécessitent l'arrêté prévu à l'article 162, au paragraphe 165(1) ou à l'article 166 de la *Loi de 1987 sur les transports nationaux*.

34. La construction de voies de drainage ou la pose de conduites d'eau ou autres tuyaux, qui nécessitent l'ordre ou la permission prévus aux paragraphes 212(1) ou (2) de la *Loi sur les chemins de fer*.

35. Le pilotage d'un aéronef en vol supersonique sur une route ou dans une zone non désignée par le ministre des Transports ou sous son autorité, qui nécessite l'autorisation prévue à l'article 3 de l'*Ordonnance sur le vol sonique et supersonique*.

36. Les travaux de dragage ou de remblayage dans les chenaux de navigation des canaux historiques ou autres eaux navigables afin que soit assurée la navigabilité de ces canaux ou de ces eaux.

37. L'enlèvement ou la destruction d'épaves ou de tout autre objet en vertu de l'article 16 de la *Loi sur la protection des eaux navigables*.

38. L'enlèvement de tout bateau ou autre objet résultant du naufrage du bateau qui a sombré, s'est échoué ou s'est jeté à la côte dans des eaux navigables canadiennes, qui nécessite l'autorisation prévue à l'article 20 de la *Loi sur la protection des eaux navigables*.

39. La destruction ou le déplacement d'un navire, de sa cargaison, en tout ou en partie, ou d'autres objets se trouvant à bord d'un navire échoué, naufragé, coulé ou abandonné, aux termes d'un ordre du gouverneur en conseil donné en vertu du paragraphe 13(1) de la *Loi sur la prévention de la pollution des eaux arctiques*.

## PARTIE VI

## GESTION DES DÉCHETS

40. L'immersion de substances qui nécessite un permis aux termes de la partie VI de la *Loi canadienne sur la protection de l'environnement*.

41. L'utilisation ou l'essai d'une unité mobile de destruction des BPC ou d'une unité mobile de traitement des BPC en vertu de l'article 11 ou du paragraphe 12(1) du *Règlement fédéral sur le traitement et la destruction des BPC au moyen d'unités mobiles*.



## SCHEDULE—Continued

## PART VII

## FISHERIES

42. The destruction of fish by any means other than fishing, where the destruction requires the authorization of the Minister of Fisheries and Oceans under section 32 of the *Fisheries Act* or authorization under regulations made by the Governor in Council under that Act.

43. The harmful alteration, disruption or destruction of fish habitat by means of physical activities carried out in a water body, including dredge or fill operations, that require the authorization of the Minister of Fisheries and Oceans under subsection 35(2) of the *Fisheries Act* or authorization under regulations made by the Governor in Council under that Act.

44. The harmful alteration, disruption or destruction of fish habitat by means of draining or altering the water levels of a water body that require the authorization of the Minister of Fisheries and Oceans under subsection 35(2) of the *Fisheries Act* or authorization under regulations made by the Governor in Council under that Act.

45. The harmful alteration, disruption or destruction of fish habitat by means of erosion control measures adjacent to a water body that require the authorization of the Minister of Fisheries and Oceans under subsection 35(2) of the *Fisheries Act* or authorization under regulations made by the Governor in Council under that Act.

46. The harmful alteration, disruption or destruction of fish habitat by means of the removal of vegetation in or adjacent to a water body that requires the authorization of the Minister of Fisheries and Oceans under subsection 35(2) of the *Fisheries Act* or authorization under regulations made by the Governor in Council under that Act.

47. The deposit of a deleterious substance that requires authorization under regulations made by the Governor in Council pursuant to subsection 36(5) of the *Fisheries Act*.

## PART VIII

## WILDLIFE

48. The removal or damaging of vegetation, the carrying on of agricultural activities or the disturbance or removal of soil in a wildlife area that requires a permit under section 4 of the *Wildlife Area Regulations*.

49. Physical activities referred to in paragraph 3(2)(b) or subsection 10(1) of the *Migratory Bird Sanctuary Regulations* that require a permit under subsection 9(1) of those Regulations.

## ANNEXE (suite)

## PARTIE VII

## PÊCHES

42. La destruction de poissons par d'autres moyens que la pêche, qui nécessite l'autorisation émanant du ministre des Pêches et des Océans prévue à l'article 32 de la *Loi sur les pêches* ou l'autorisation prévue dans tout règlement pris par le gouverneur en conseil en application de cette loi.

43. La détérioration, la destruction ou la perturbation de l'habitat du poisson par des activités concrètes exercées dans un plan d'eau, notamment des opérations de dragage ou de remblayage, qui nécessitent l'autorisation du ministre des Pêches et des Océans prévue au paragraphe 35(2) de la *Loi sur les pêches* ou l'autorisation prévue dans tout règlement pris par le gouverneur en conseil en application de cette loi.

44. La détérioration, la destruction ou la perturbation de l'habitat du poisson par le vidage d'un plan d'eau ou la modification de son niveau d'eau, qui nécessitent l'autorisation du ministre des Pêches et des Océans prévue au paragraphe 35(2) de la *Loi sur les pêches* ou l'autorisation prévue dans tout règlement pris par le gouverneur en conseil en application de cette loi.

45. La détérioration, la destruction ou la perturbation de l'habitat du poisson par des mesures de contrôle de l'érosion le long d'un plan d'eau, qui nécessitent l'autorisation du ministre des Pêches et des Océans prévue au paragraphe 35(2) de la *Loi sur les pêches* ou l'autorisation prévue dans tout règlement pris par le gouverneur en conseil en application de cette loi.

46. La détérioration, la destruction ou la perturbation de l'habitat du poisson par l'enlèvement de la végétation dans un plan d'eau ou le long de celui-ci, qui nécessitent l'autorisation du ministre des Pêches et des Océans prévue au paragraphe 35(2) de la *Loi sur les pêches* ou l'autorisation prévue dans tout règlement pris par le gouverneur en conseil en application de cette loi.

47. L'immersion ou le rejet d'une substance nocive qui nécessitent l'autorisation prévue dans tout règlement pris par le gouverneur en conseil en application du paragraphe 36(5) de la *Loi sur les pêches*.

## PARTIE VIII

## FAUNE

48. L'endommagement ou l'arrachage de la végétation, le fait de se livrer à des activités agricoles ou de déranger ou d'enlever de la terre d'une réserve de faune, qui nécessitent le permis prévu à l'article 4 du *Règlement sur les réserves de faune*.

49. Les activités concrètes visées à l'alinéa 3(2)b) ou au paragraphe 10(1) du *Règlement sur les refuges d'oiseaux migrateurs* qui nécessitent le permis prévu au paragraphe 9(1) de ce règlement.

## SCHEDULE—Continued

50. The killing of a migratory bird or the taking of a migratory bird or its nest or eggs that requires a scientific permit referred to in subsection 19(1) of the *Migratory Birds Regulations*.

51. The killing of an endangered migratory bird that is considered to be a danger to aircraft operating at an airport that requires a permit under subsection 28(1) of the *Migratory Birds Regulations*.

52. The collection of eiderdown from migratory birds that requires a permit under subsection 32(1) of the *Migratory Birds Regulations*.

53. The introduction into Canada for the purpose of sport, acclimatization or release from captivity of a species of migratory bird not indigenous to Canada that requires consent in writing under section 33 of the *Migratory Birds Regulations*.

54. The deposit of oil, oil wastes or any other substance harmful to migratory birds in waters or in any area frequented by migratory birds that requires an authorization under paragraph 35(2)(b) of the *Migratory Birds Regulations*.

55. The killing, capture or possession of any migratory bird or the collection or possession of carcasses, eggs or nests of any migratory bird that requires a special permit under section 36 of the *Migratory Birds Regulations*.

## PART IX

## PROJECTS ON ABORIGINAL LANDS

56. The use of lands in an Indian reserve for the purpose of Indian schools, the administration of Indian affairs, Indian burial grounds or Indian health projects that requires an authorization under subsection 18(2) of the *Indian Act*.

57. The occupation or use of, or residence or exercise of rights on, an Indian reserve that requires a permit under subsection 28(2) of the *Indian Act*.

58. The disposal of sand, gravel, clay or other non-metallic substances on or under lands in an Indian reserve under paragraph 58(4)(b) of the *Indian Act* or the taking of sand, gravel, clay or other non-metallic substances on or under lands in an Indian reserve that requires a temporary permit under that paragraph.

59. The operation of a garbage dump or the disposal, storage or burning of waste that requires a permit under section 5 of the *Indian Reserve Waste Disposal Regulations*.

60. The exploration for, or development of, minerals that requires a permit or lease under subsection 5(2) or 6(1) of the *Indian Mining Regulations*.

## ANNEXE (suite)

50. La mise à mort ou la prise d'un oiseau migrateur ou la prise de son nid ou de ses oeufs, qui nécessitent le permis scientifique prévu au paragraphe 19(1) du *Règlement sur les oiseaux migrateurs*.

51. La mise à mort des oiseaux migrateurs d'une espèce en voie d'extinction qui constituent un danger pour les aéronefs utilisant un aéroport, qui nécessite le permis prévu au paragraphe 28(1) du *Règlement sur les oiseaux migrateurs*.

52. La cueillette d'édredon d'oiseaux migrateurs qui nécessite le permis prévu au paragraphe 32(1) du *Règlement sur les oiseaux migrateurs*.

53. Le fait de faire entrer au Canada des oiseaux migrateurs qui ne sont pas d'une espèce indigène du Canada, pour les mettre en liberté ou les acclimater ou pour le sport, qui nécessite l'autorisation écrite prévue à l'article 33 du *Règlement sur les oiseaux migrateurs*.

54. Le dépôt de pétrole, de résidus du pétrole ou d'autres substances nocives pour les oiseaux migrateurs dans des eaux ou une région fréquentées par ces oiseaux, qui nécessite l'autorisation prévue à l'alinéa 35(2)b) du *Règlement sur les oiseaux migrateurs*.

55. La mise à mort, la capture ou la possession d'oiseaux migrateurs ou la cueillette ou la possession de carcasses, d'oeufs ou de nids d'oiseaux migrateurs, qui nécessitent le permis spécial prévu à l'article 36 du *Règlement sur les oiseaux migrateurs*.

## PARTIE IX

## PROJETS SUR DES TERRES AUTOCHTONES

56. L'utilisation de terres dans une réserve indienne aux fins d'écoles indiennes, de l'administration d'affaires indiennes, de cimetières indiens ou de projets relatifs à la santé des Indiens, qui nécessite l'autorisation prévue au paragraphe 18(2) de la *Loi sur les Indiens*.

57. L'occupation ou l'utilisation d'une réserve indienne, ou le fait de résider ou d'exercer des droits sur celle-ci, qui nécessitent le permis prévu au paragraphe 28(2) de la *Loi sur les Indiens*.

58. La disposition de sable, de gravier, de glaise ou d'autres substances non métalliques se trouvant sur des terres ou dans le sous-sol d'une réserve indienne en vertu de l'alinéa 58(4)b) de la *Loi sur les Indiens* ou la prise de ces substances qui nécessite le permis temporaire prévu à cet alinéa.

59. La tenue d'un dépotoir d'ordures ou la destruction ou le dépôt de déchets ou le fait de les brûler, qui nécessitent le permis prévu à l'article 5 du *Règlement sur la destruction des déchets dans les réserves indiennes*.

60. La recherche ou la mise en valeur de minéraux qui nécessitent le permis ou le bail prévus aux paragraphes 5(2) ou 6(1) du *Règlement sur l'exploitation minière dans les réserves indiennes*.



## SCHEDULE—Continued

61. Exploratory work on Indian lands that requires an exploratory licence under subsection 5(2) of the *Indian Oil and Gas Regulations*.

62. Exploratory work or drilling for oil or gas that requires a permit or lease under subsection 7(1) or (5) of the *Indian Oil and Gas Regulations* or an extension of a permit under subsection 10(4) of those Regulations.

63. The drilling of a well that is the subject of a direction under subsection 22(1) of the *Indian Oil and Gas Regulations*.

64. The abandonment of a well that requires an approval under subsection 26(2) of the *Indian Oil and Gas Regulations*.

65. The exploitation of oil or gas on Indian lands that requires a surface rights contract under subsection 28(4) of the *Indian Oil and Gas Regulations*.

66. The entry on, or use or taking of the surface of, land that requires a grant under subsection 31(1) of the *Indian Oil and Gas Regulations*.

67. The cutting of timber on an Indian reserve that requires a permit, licence or variation under subsection 5(1), section 9 or subsection 22(1) of the *Indian Timber Regulations*.

## PART X

## NORTHERN PROJECTS

68. Physical activities relating to the use of waters or the deposit of waste that require a licence under subsection 14(1) of the *Yukon Waters Act* or that are the subject of a renewal of or amendment to a licence under paragraph 18(1)(a) or (b), or physical activities relating to a cancellation of a licence under paragraph 18(1)(c) of that Act.

69. Physical activities relating to the use of waters or the deposit of waste that require a licence under subsection 14(1) of the *Northwest Territories Waters Act* or that are the subject of a renewal of or amendment to a licence under paragraph 18(1)(a) or (b), or physical activities relating to a cancellation of a licence under paragraph 18(1)(c) of that Act.

70. Physical activities referred to in section 8 or 9 of the *Territorial Land Use Regulations* that are carried on in the Yukon Territory or Northwest Territories and that require a Class A Permit or Class B Permit under paragraph 25(1)(a) or 27(a) of those Regulations.

71. The cutting and removal of timber that requires a permit under section 4 or subsection 5(1) of the *Yukon Timber Regulations*, where the estimated volume of the wood to be cut and removed exceeds 1 000 m<sup>3</sup>/a.

## ANNEXE (suite)

61. L'exécution de travaux d'exploration sur des terres indiennes qui nécessite la licence d'exploration prévue au paragraphe 5(2) du *Règlement sur le pétrole et le gaz des terres indiennes*.

62. Les travaux d'exploration ou de forage pour la recherche de pétrole ou de gaz, qui nécessitent le permis ou le bail prévus aux paragraphes 7(1) ou (5) du *Règlement sur le pétrole et le gaz des terres indiennes* ou la prolongation d'un tel permis aux termes du paragraphe 10(4) de ce règlement.

63. Le forage d'un puits visé dans une directive prévue au paragraphe 22(1) du *Règlement sur le pétrole et le gaz des terres indiennes*.

64. L'abandon d'un puits qui nécessite l'approbation prévue au paragraphe 26(2) du *Règlement sur le pétrole et le gaz des terres indiennes*.

65. L'exploitation du pétrole ou du gaz sur des terres indiennes qui nécessite le contrat relatif aux droits de superficie prévu au paragraphe 28(4) du *Règlement sur le pétrole et le gaz des terres indiennes*.

66. L'entrée sur un terrain, son utilisation ou sa prise de possession, qui nécessitent la permission prévue au paragraphe 31(1) du *Règlement sur le pétrole et le gaz des terres indiennes*.

67. La coupe de bois de construction sur une réserve indienne, qui nécessite le permis ou la licence prévus au paragraphe 5(1) ou à l'article 9 du *Règlement sur le bois de construction des Indiens* ou la modification d'une telle licence prévue au paragraphe 22(1) de ce règlement.

## PARTIE X

## PROJETS DANS LE NORD

68. Les activités concrètes liées à l'utilisation des eaux ou au dépôt de déchets, qui nécessitent le permis prévu au paragraphe 14(1) de la *Loi sur les eaux du Yukon* ou le renouvellement ou la modification d'un tel permis prévus aux alinéas 18(1)a) ou b) de cette loi, ou qui sont liées à l'annulation d'un tel permis prévue à l'alinéa 18(1)c) de cette loi.

69. Les activités concrètes liées à l'utilisation des eaux ou au dépôt de déchets, qui nécessitent le permis prévu au paragraphe 14(1) de la *Loi sur les eaux des Territoires du Nord-Ouest* ou le renouvellement ou la modification d'un tel permis prévus aux alinéas 18(1)a) ou b) de cette loi, ou qui sont liées à l'annulation d'un tel permis prévue à l'alinéa 18(1)c) de cette loi.

70. Les activités concrètes visées aux articles 8 ou 9 du *Règlement sur l'utilisation des terres territoriales* qui sont exercées au Yukon ou dans les Territoires du Nord-Ouest et qui nécessitent le permis de catégorie A ou le permis de catégorie B prévus aux alinéas 25(1)a) ou 27a) de ce règlement.

71. La coupe et le débusquage du bois qui nécessitent le permis prévu à l'article 4 ou au paragraphe 5(1) du *Règlement sur le bois du Yukon*, lorsque le volume estimatif de bois destiné à être coupé et débusqué dépasse 1 000 m<sup>3</sup>/a.



## SCHEDULE—Concluded

72. The starting of an open fire to burn flammable materials that requires a permit under subsection 10(1) of the *Yukon Forest Protection Regulations*, where machinery is used to pile or gather the material.

73. The grazing of reindeer that requires a licence under paragraph 5(1)(b) of the *Northwest Territories Reindeer Regulations*.

## PART XI

## FORESTS

74. The cutting or removal of timber that requires a permit under subsection 7(3) of the *Timber Regulations, 1993* or an agreement under section 14 of those Regulations.

## PART XII

## MISCELLANEOUS

75. A physical activity that requires a licence under paragraph 3(a), (d) or (f) of the *Public Lands Licensing Order*.

76. Physical activities that require a licence to use or occupy federal lands under paragraph 4(2)(a) of the *Federal Real Property Regulations*.

77. Physical activities relating to the establishment or use of a temporary field camp where the camp is to be used for 200 person-days or more.

78. The importation of animals for agricultural purposes, including the raising of animals in captivity for the sale of breeding stock or any of their parts, that requires a permit under paragraph 10(1)(a) of the *Health of Animals Regulations*, other than the importation of animals of domestic equine species, of domestic species of cattle, sheep, swine, goats and poultry and of indigenous species that are farmed for fur.

**N.B.** The Regulatory Impact Analysis Statement for these Regulations appears at page 3388, following SOR/94-636.

## ANNEXE (fin)

72. Le fait de faire un feu non couvert pour brûler des matériaux inflammables, qui nécessite le permis prévu au paragraphe 10(1) du *Règlement sur la protection des forêts du Yukon*, lorsque des machines sont utilisées pour empiler ou ramasser les matériaux.

73. Le fait de mettre au pâturage des rennes qui nécessite la licence prévue à l'alinéa 5(1)b) du *Règlement sur les rennes des Territoires du Nord-Ouest*.

## PARTIE XI

## FORÊTS

74. La coupe ou l'enlèvement du bois qui nécessite le permis prévu au paragraphe 7(3) du *Règlement de 1993 sur le bois* ou le contrat prévu à l'article 14 de ce règlement.

## PARTIE XII

## DIVERS

75. Les activités concrètes qui nécessitent le permis prévu aux alinéas 3a), d) ou f) du *Décret sur les permis relatifs à des terres publiques*.

76. Les activités concrètes qui nécessitent, à l'égard des terres fédérales, le permis relatif au droit d'usage ou d'occupation prévu à l'alinéa 4(2)a) du *Règlement concernant les immeubles fédéraux*.

77. Les activités concrètes liées à l'établissement ou à l'utilisation d'un campement temporaire qui est destiné à servir pour 200 jours-personnes ou plus.

78. L'importation d'animaux à des fins agricoles, y compris l'élevage d'animaux en captivité pour la vente aux fins de reproduction ou la vente de toute partie de ceux-ci, qui nécessite le permis prévu à l'alinéa 10(1)a) du *Règlement sur la santé des animaux*, à l'exclusion de l'importation d'animaux d'une espèce domestique de bovins, d'ovins, d'équidés, de porcins, de caprins et de volaille et d'une espèce indigène qui sont élevés pour la fourrure.

**N.B.** Le résumé de l'étude d'impact de la réglementation de ce règlement se trouve à la page 3388, suite au DORS/94-636.

Registration  
SOR/94-638 7 October, 1994

CANADIAN ENVIRONMENTAL ASSESSMENT ACT

**Comprehensive Study List Regulations**

P.C. 1994-1687 7 October, 1994

Whereas the Governor in Council is satisfied that certain projects and classes of projects are likely to have significant adverse environmental effects;

Therefore, His Excellency the Governor General in Council, on the recommendation of the Minister of the Environment, pursuant to paragraph 59(d) of the Canadian Environmental Assessment Act\*, is pleased hereby to make the annexed Regulations prescribing those projects and classes of projects for which a comprehensive study is required, effective on the day on which section 59 of the Canadian Environmental Assessment Act comes into force.

REGULATIONS PRESCRIBING THOSE PROJECTS AND  
CLASSES OF PROJECTS FOR WHICH A  
COMPREHENSIVE STUDY IS REQUIRED

*Short Title*

1. These Regulations may be cited as the *Comprehensive Study List Regulations*.

*Interpretation*

2. In these Regulations,
- "abandonment" does not include the temporary cessation of the operation of a physical work; (*fermeture*)
  - "aerodrome" means aerodrome as defined in subsection 3(1) of the *Aeronautics Act*; (*aérodrome*)
  - "airport" means airport as defined in subsection 3(1) of the *Aeronautics Act*; (*aéroport*)
  - "decommissioning" does not include the cessation of the operation of a physical work; (*désaffectation*)
  - "hazardous waste" means hazardous waste as defined in subsection 43(4) of the *Canadian Environmental Protection Act*; (*déchets dangereux*)
  - "historic canal" means a historic canal set out in column I of an item of Schedule I to the *Historic Canals Regulations*; (*canal historique*)
  - "management plan" means a management plan in respect of a national park, national park reserve, national historic site or historic canal that has been laid before each House of Parliament; (*plan de gestion*)

Enregistrement  
DORS/94-638 7 octobre 1994

LOI CANADIENNE SUR L'ÉVALUATION  
ENVIRONNEMENTALE

**Règlement sur la liste d'étude approfondie**

C.P. 1994-1687 7 octobre 1994

Attendu que le gouverneur en conseil est convaincu que certains projets et certaines catégories de projets sont susceptibles d'entraîner des effets environnementaux négatifs importants,

À ces causes, sur recommandation de la ministre de l'Environnement et en vertu de l'alinéa 59d) de la Loi canadienne sur l'évaluation environnementale\*, il plaît à Son Excellence le Gouverneur général en conseil de prendre le Règlement désignant les projets et les catégories de projets pour lesquels une étude environnementale approfondie est obligatoire, ci-après, lequel entre en vigueur à la date d'entrée en vigueur de l'article 59 de la Loi canadienne sur l'évaluation environnementale.

RÈGLEMENT DÉSIGNANT LES PROJETS ET LES  
CATÉGORIES DE PROJETS POUR LESQUELS UNE  
ÉTUDE ENVIRONNEMENTALE APPROFONDIE EST  
OBLIGATOIRE

*Titre abrégé*

1. *Règlement sur la liste d'étude approfondie*.

*Définitions*

2. Les définitions qui suivent s'appliquent au présent règlement.
- « aérodrome » S'entend au sens du paragraphe 3(1) de la *Loi sur l'aéronautique*. (*aerodrome*)
  - « aéroport » S'entend au sens du paragraphe 3(1) de la *Loi sur l'aéronautique*. (*airport*)
  - « canal historique » Canal historique mentionné à la colonne I de l'annexe I du *Règlement sur les canaux historiques*. (*historic canal*)
  - « déchets dangereux » S'entend au sens du paragraphe 43(4) de la *Loi canadienne sur la protection de l'environnement*. (*hazardous waste*)
  - « désaffectation » Ne vise pas le fait de cesser l'exploitation d'un ouvrage. (*decommissioning*)
  - « emprise » Terrain qui est assujéti à un droit de passage et qui est aménagé pour une ligne de transport d'électricité, un pipeline d'hydrocarbures, une ligne de chemin de fer ou une voie publique permanente. (*right of way*)
  - « établissement nucléaire » S'entend au sens de l'article 2 du *Règlement sur le contrôle de l'énergie atomique*. (*nuclear facility*)

\* S.C. 1992, c. 37

\* L.C. 1992, ch. 37



"migratory bird sanctuary" means an area set out in the schedule to the *Migratory Bird Sanctuary Regulations*; (*refuge d'oiseaux migrateurs*)

"national historic site" means

(a) a place that is marked or commemorated pursuant to section 3 of the *Historic Sites and Monuments Act* and is under the responsibility of the Minister of Communications, and

(b) land set apart as a National Historic Park under Part II of the *National Parks Act*; (*lieu historique national*)

"national park" means

(a) a park described in Schedule I to the *National Parks Act*, and

(b) a park established pursuant to a federal-provincial agreement that is under the responsibility of the Minister of Communications and is not described in Schedule I to the *National Parks Act*; (*parc national*)

"national park reserve" means a reserve established under *An Act to amend the National Parks Act and to amend An Act to amend the National Parks Act*, chapter 48 of the Statutes of Canada, 1988, and the lands described in the schedule to the *Mingan Archipelago National Park Act*; (*réserve foncière*)

"new right of way" means land that is subject to a right of way that is proposed to be developed for an electrical transmission line, an oil and gas pipeline, a railway line, or an all-season public highway and that is not alongside and contiguous to an existing right of way; (*nouvelle emprise*)

"nuclear facility" means nuclear facility as defined in section 2 of the *Atomic Energy Control Regulations*; (*établissement nucléaire*)

"oil and gas pipeline" means a pipeline that is used, or is to be used, for the transmission of hydrocarbons alone or with any other commodity; (*pipeline d'hydrocarbures*)

"paper product" includes paper, coated paper, paperboard, hardboard, boxboard, linerboard, insulating board, building board, corrugating medium, tissue, moulded cellulose product and any other product directly derived from pulp, but does not include viscose, rayon, cellophane or any other cellulose derivative; (*produit de papier*)

"pulp" means processed cellulose fibres that are derived from wood, other plant material or recycled paper products; (*pâte*)

"pulp and paper mill" means a mill that produces pulp and paper products, but does not include a mill that produces paper products only; (*fabrique de pâtes et papiers*)

"right of way" means land that is subject to a right of way and that is developed for an electrical transmission line, an oil and gas pipeline, a railway or an all-season public highway; (*emprise*)

"water body" means any water body, including a canal, reservoir, an ocean and a wetland, up to the high-water mark, but does not include a sewage or waste treatment lagoon or a mine tailings pond; (*plan d'eau*)

"wetland" means a swamp, marsh, bog, fen or other land that is covered by water during at least three consecutive months of the year; (*terres humides*)

"wildlife area" means wildlife area as defined in section 2 of the *Wildlife Area Regulations*. (*réserve de faune*)

« fabrique de pâtes et papiers » Fabrique qui produit de la pâte et des produits de papier. La présente définition exclut les fabriques qui ne produisent que des produits de papier. (*pulp and paper mill*)

« fermeture » Ne vise pas le fait de cesser, de façon temporaire, l'exploitation d'un ouvrage. (*abandonment*)

« lieu historique national »

a) Endroit signalé en vertu de l'article 3 de la *Loi sur les lieux et monuments historiques* et placé sous l'autorité du ministre des Communications;

b) terre érigée en parc historique national en vertu de la partie II de la *Loi sur les parcs nationaux*. (*national historic site*)

« nouvelle emprise » Terrain qui est assujéti à un droit de passage, qui est destiné à être aménagé pour une ligne de transport d'électricité, un pipeline d'hydrocarbures, une ligne de chemin de fer ou une voie publique permanente, et qui n'est pas situé le long d'une emprise existante ni contiguë à celle-ci. (*new right of way*)

« parc national »

a) Parc décrit à l'annexe I de la *Loi sur les parcs nationaux*;

b) parc érigé conformément à un accord fédéral-provincial et placé sous l'autorité du ministre des Communications, mais non décrit à cette annexe. (*national park*)

« pâte » Les fibres de cellulose traitées qui sont dérivées du bois, d'autres matières végétales ou de produits de papier recyclés. (*pulp*)

« pipeline d'hydrocarbures » Pipeline qui est utilisé, ou destiné à être utilisé, pour le transport d'hydrocarbures, seuls ou avec tout autre produit. (*oil and gas pipeline*)

« plan d'eau » Tout plan d'eau, notamment les canaux, réservoirs, terres humides et océans, jusqu'à la laisse des hautes eaux. La présente définition ne vise pas les étangs de traitement des eaux usées et les étangs de résidus miniers. (*water body*)

« plan de gestion » Plan de gestion déposé devant chaque chambre du Parlement et concernant un parc national, une réserve foncière, un lieu historique national ou un canal historique. (*management plan*)

« produit de papier » Produit directement dérivé de la pâte, notamment le papier, le papier couché, le carton, le carton-fibre, le carton pour boîtes, le carton doublure, le carton isolant, le carton de construction, le carton à onduler, le papier de soie et les produits de cellulose moulée. Ne sont pas visés par la présente définition la viscose, la rayonne, la cellophane ou tout autre dérivé de la cellulose. (*paper product*)

« refuge d'oiseaux migrateurs » Zone décrite à l'annexe du *Règlement sur les refuges d'oiseaux migrateurs*. (*migratory bird sanctuary*)

« réserve de faune » S'entend au sens de l'article 2 du *Règlement sur les réserves de faune*. (*wildlife area*)

« réserve foncière » Réserve constituée en vertu de la *Loi modifiant la Loi sur les parcs nationaux et la Loi modifiant la Loi sur les parcs nationaux*, chapitre 48 des Lois du Canada (1988), et les terres définies à l'annexe de la *Loi sur le parc national de l'archipel de Mingan*. (*national park reserve*)



« terres humides » Marécages, marais ou autres terres qui sont couverts d'eau durant au moins trois mois consécutifs au cours de l'année. (*wetland*)

*General*

3. The projects and classes of projects that are set out in the schedule are prescribed projects and classes of projects for which a comprehensive study is required.

*Dispositions générales*

3. Les projets et les catégories de projets figurant à l'annexe sont ceux pour lesquels une étude approfondie est obligatoire.

SCHEDULE  
(Section 3)

ANNEXE  
(article 3)

## COMPREHENSIVE STUDY LIST

## LISTE D'ÉTUDE APPROFONDIE

## PART I

## PARTIE I

## NATIONAL PARKS AND PROTECTED AREAS

## PARCS NATIONAUX ET ZONES PROTÉGÉES

1. The proposed construction, decommissioning or abandonment in relation to a physical work in or on a national park, national park reserve, national historic site or historic canal that is contrary to its management plan.

1. Projet de construction, de désaffectation ou de fermeture d'un ouvrage dans un parc national, une réserve foncière, un lieu historique national ou un canal historique qui va à l'encontre du plan de gestion du parc, de la réserve, du lieu ou du canal.

2. The proposed construction, decommissioning or abandonment, in a wildlife area or migratory bird sanctuary, of

2. Projet de construction, de désaffectation ou de fermeture, dans une réserve de faune ou un refuge d'oiseaux migrateurs :

- (a) an electrical generating station or transmission line;
- (b) a dam, dyke, reservoir or other structure for the diversion of water;
- (c) an oil or gas facility or oil and gas pipeline;
- (d) a mine or mill;
- (e) a nuclear facility or uranium mining facility;
- (f) an industrial facility;
- (g) a canal or lock;
- (h) a marine terminal;
- (i) a railway line or public highway;
- (j) an aerodrome or runway; or
- (k) a waste management facility.

- a) d'une centrale électrique ou d'une ligne de transport d'électricité;
- b) d'un barrage, d'une digue, d'un réservoir ou d'une autre structure de dérivation des eaux;
- c) d'une installation pétrolière ou gazière ou d'un pipeline d'hydrocarbures;
- d) d'une mine ou d'une usine;
- e) d'un établissement nucléaire ou d'une installation d'extraction d'uranium;
- f) d'une installation industrielle;
- g) d'un canal ou d'une écluse;
- h) d'un terminal maritime;
- i) d'une ligne de chemin de fer ou d'une voie publique;
- j) d'un aéroport ou d'une piste;
- k) d'une installation de gestion des déchets.

3. The proposed expansion of a golf course or ski hill in a national park or national park reserve.

3. Projet d'agrandissement d'un terrain de golf ou d'une pente de ski dans un parc national ou une réserve foncière.

## PART II

## PARTIE II

## ELECTRICAL GENERATING STATIONS AND TRANSMISSION LINES

## CENTRALES ÉLECTRIQUES ET LIGNES DE TRANSPORT D'ÉLECTRICITÉ

4. The proposed construction, decommissioning or abandonment of

4. Projet de construction, de désaffectation ou de fermeture :

- (a) a fossil fuel-fired electrical generating station with a production capacity of 200 MW or more; or
- (b) a hydroelectric generating station with a production capacity of 200 MW or more.

- a) d'une centrale électrique alimentée par un combustible fossile d'une capacité de production de 200 MW ou plus;
- b) d'une centrale hydroélectrique d'une capacité de production de 200 MW ou plus.

## SCHEDULE—Continued

## 5. The proposed expansion of

(a) a fossil fuel-fired electrical generating station that would result in an increase in production capacity of 50 per cent or more and 200 MW or more; or

(b) a hydroelectric generating station that would result in an increase in production capacity of 50 per cent or more and 200 MW or more.

6. The proposed construction, decommissioning or abandonment of a tidal power electrical generating station with a production capacity of 5 MW or more, or an expansion of such a station that would result in an increase in production capacity of more than 35 per cent.

7. The proposed construction of an electrical transmission line with a voltage of 345 kV or more that is 75 km or more in length on a new right of way.

## PART III

## WATER PROJECTS

8. The proposed construction, decommissioning or abandonment of a dam or dyke that would result in the creation of a reservoir with a surface area that would exceed the annual mean surface area of a natural water body by 1 500 hectares or more, or an expansion of a dam or dyke that would result in an increase in the surface area of a reservoir of more than 35 per cent.

9. The proposed construction, decommissioning or abandonment of a structure for the diversion of 10 000 000 m<sup>3</sup>/a or more of water from a natural water body into another natural water body or an expansion of such a structure that would result in an increase in diversion capacity of more than 35 per cent.

10. The proposed construction, decommissioning or abandonment of a facility for the extraction of 200 000 m<sup>3</sup>/a or more of ground water or an expansion of such a facility that would result in an increase in production capacity of more than 35 per cent.

## PART IV

## OIL AND GAS PROJECTS

11. The proposed construction, decommissioning or abandonment of

(a) a platform, artificial island or any other physical work for the production of oil or gas, where the platform, island or work is located offshore in salt water or fresh water; or

(b) a heavy oil or oil sands processing facility with an oil production capacity of more than 10 000 m<sup>3</sup>/d.

12. The proposed expansion of a heavy oil or oil sands processing facility that would result in an increase in oil production capacity that would exceed 5 000 m<sup>3</sup>/d and would raise the total oil production capacity to more than 10 000 m<sup>3</sup>/d.

## ANNEXE (suite)

## 5. Projet d'agrandissement :

a) d'une centrale électrique alimentée par un combustible fossile qui entraînerait une augmentation de la capacité de production d'au moins 50 pour cent et d'au moins 200 MW;

b) d'une centrale hydroélectrique qui entraînerait une augmentation de la capacité de production d'au moins 50 pour cent et d'au moins 200 MW.

6. Projet de construction, de désaffectation ou de fermeture d'une centrale électrique marémotrice d'une capacité de production de 5 MW ou plus, ou projet d'agrandissement d'une telle centrale qui entraînerait une augmentation de la capacité de production de plus de 35 pour cent.

7. Projet de construction, sur une nouvelle emprise, d'une ligne de transport d'électricité d'une tension de 345 kV ou plus et d'une longueur de 75 km ou plus.

## PARTIE III

## PROJETS HYDRAULIQUES

8. Projet de construction, de désaffectation ou de fermeture d'un barrage ou d'une digue qui entraînerait la création d'un réservoir dont la superficie dépasserait la superficie moyenne annuelle du plan d'eau naturel de 1 500 hectares ou plus, ou projet d'agrandissement d'un barrage ou d'une digue qui entraînerait une augmentation de la superficie du réservoir de plus de 35 pour cent.

9. Projet de construction, de désaffectation ou de fermeture d'une structure destinée à dériver 10 000 000 m<sup>3</sup>/a ou plus d'eau d'un plan d'eau naturel dans un autre, ou projet d'agrandissement d'une telle structure qui entraînerait une augmentation de la capacité de dérivation de plus de 35 pour cent.

10. Projet de construction, de désaffectation ou de fermeture d'une installation destinée à extraire 200 000 m<sup>3</sup>/a ou plus d'eau souterraine, ou projet d'agrandissement d'une telle installation qui entraînerait une augmentation de la capacité de production de plus de 35 pour cent.

## PARTIE IV

## PROJETS PÉTROLIERS ET GAZIERS

11. Projet de construction, de désaffectation ou de fermeture :

a) d'une plate-forme, d'une île artificielle ou de tout autre ouvrage qui sert à la production de pétrole ou de gaz et qui est situé au large des côtes en eau salée ou en eau douce;

b) d'une installation de traitement d'huile lourde ou de sables bitumineux d'une capacité de production de pétrole de plus de 10 000 m<sup>3</sup>/d.

12. Projet d'agrandissement d'une installation de traitement d'huile lourde ou de sables bitumineux qui entraînerait une augmentation de la capacité de production de pétrole de plus de 5 000 m<sup>3</sup>/d et qui ferait passer la capacité de production totale de pétrole à plus de 10 000 m<sup>3</sup>/d.



## SCHEDULE—Continued

13. The proposed construction, decommissioning or abandonment, or an expansion that would result in an increase in production capacity of more than 35 per cent, of

- (a) an oil refinery, including a heavy oil upgrader, with an input capacity of more than 10 000 m<sup>3</sup>/d;
- (b) a facility for the production of liquid petroleum products from coal with a production capacity of more than 2 000 m<sup>3</sup>/d;
- (c) a sour gas processing facility with a sulphur inlet capacity of more than 2 000 t/d;
- (d) a facility for the liquefaction, storage or regasification of liquefied natural gas, with a liquefied natural gas processing capacity of more than 3 000 t/d or a liquefied natural gas storage capacity of more than 50 000 t;
- (e) a petroleum storage facility with a capacity of more than 500 000 m<sup>3</sup>; or
- (f) a liquefied petroleum gas storage facility with a capacity of more than 100 000 m<sup>3</sup>.

14. The proposed construction of

- (a) an oil and gas pipeline more than 75 km in length on a new right of way; or
- (b) an offshore oil and gas pipeline.

15. A proposed offshore exploratory drilling project in an area where no other offshore exploratory drilling project has been previously assessed under either the *Canadian Environmental Assessment Act* or the *Environmental Assessment Review Process Guidelines Order*.

## PART V

## MINERALS AND MINERAL PROCESSING

16. The proposed construction, decommissioning or abandonment of

- (a) a metal mine, other than a gold mine, with an ore production capacity of 3 000 t/d or more;
- (b) a metal mill with an ore input capacity of 4 000 t/d or more;
- (c) a gold mine, other than a placer mine, with an ore production capacity of 600 t/d or more;
- (d) a coal mine with a coal production capacity of 3 000 t/d or more; or
- (e) a potash mine with a potassium chloride production capacity of 1 000 000 t/a or more.

17. The proposed expansion of

- (a) an existing metal mine, other than a gold mine, that would result in an increase in its ore production capacity of 50 per cent or more, or 1 500 t/d or more, if the increase would raise the total ore production capacity to 3 000 t/d or more;

## ANNEXE (suite)

13. Projet de construction, de désaffectation ou de fermeture, ou projet d'agrandissement entraînant une augmentation de la capacité de production de plus de 35 pour cent :

- a) d'une raffinerie de pétrole, y compris une usine de valorisation d'huile lourde, d'une capacité d'admission de plus de 10 000 m<sup>3</sup>/d;
- b) d'une installation de production de produits pétroliers liquides, à partir du charbon, d'une capacité de production de plus de 2 000 m<sup>3</sup>/d;
- c) d'une installation de traitement de gaz sulfureux d'une capacité d'admission de soufre de plus de 2 000 t/d;
- d) d'une installation de liquéfaction, de stockage ou de regazéification de gaz naturel liquéfié d'une capacité de traitement de gaz naturel liquéfié de plus de 3 000 t/d ou d'une capacité de stockage de gaz naturel liquéfié de plus de 50 000 t;
- e) d'une installation de stockage de pétrole d'une capacité de plus de 500 000 m<sup>3</sup>;
- f) d'une installation de stockage de gaz de pétrole liquéfié d'une capacité de plus de 100 000 m<sup>3</sup>.

14. Projet de construction :

- a) d'un pipeline d'hydrocarbures d'une longueur de plus de 75 km sur une nouvelle emprise;
- b) d'un pipeline d'hydrocarbures extracôtier.

15. Projet de forage exploratoire extracôtier dans une zone où aucun autre projet de forage exploratoire extracôtier n'a fait l'objet d'une évaluation environnementale aux termes de la *Loi canadienne sur l'évaluation environnementale* ou du *Décret sur les lignes directrices visant le processus d'évaluation et d'examen en matière d'environnement*.

## PARTIE V

## MINÉRAIS ET TRAITEMENT DES MINÉRAIS

16. Projet de construction, de désaffectation ou de fermeture :

- a) d'une mine métallifère, autre qu'une mine d'or, d'une capacité de production de minerai de 3 000 t/d ou plus;
- b) d'une usine métallurgique d'une capacité d'admission de minerai de 4 000 t/d ou plus;
- c) d'une mine d'or, autre qu'un placer, d'une capacité de production de minerai de 600 t/d ou plus;
- d) d'une mine de charbon d'une capacité de production de charbon de 3 000 t/d ou plus;
- e) d'une mine de potasse d'une capacité de production de chlorure de potassium de 1 000 000 t/a ou plus.

17. Projet d'agrandissement :

- a) d'une mine métallifère existante, autre qu'une mine d'or, qui entraînerait une augmentation de la capacité de production de minerai de 50 pour cent ou plus ou de 1 500 t/d ou plus, si l'augmentation faisait passer la capacité de production totale de minerai à 3 000 t/d ou plus;



## SCHEDULE—Continued

(b) an existing metal mill that would result in an increase in its ore input capacity of 50 per cent or more, or 2 000 t/d or more, if the increase would raise the total ore input capacity to 4 000 t/d or more;

(c) an existing gold mine, other than a placer mine, that would result in an increase in its ore production capacity of 50 per cent or more, or 300 t/d or more, if the increase would raise the total ore production capacity to 600 t/d or more;

(d) an existing coal mine that would result in an increase in its coal production capacity of 50 per cent or more, or 1 500 t/d or more, if the increase would raise the total coal production capacity to 3 000 t/d or more; or

(e) an existing potash mine that would result in an increase in its potassium chloride production capacity of 50 per cent or more, or 500 000 t/a or more, if the increase would raise the total potassium chloride production capacity to 1 000 000 t/a or more.

18. The proposed construction, decommissioning or abandonment, or an expansion that would result in an increase in production capacity of more than 35 per cent, of

(a) an asbestos mine;

(b) a salt mine with a brine production capacity of 4 000 t/d or more;

(c) an underground salt mine with a production capacity of 20 000 t/d or more;

(d) a graphite mine with a production capacity of 1 500 t/d or more;

(e) a gypsum mine with a production capacity of 4 000 t/d or more;

(f) a magnesite mine with a production capacity of 1 500 t/d or more;

(g) a limestone mine with a production capacity of 12 000 t/d or more;

(h) a clay mine with a production capacity of 20 000 t/d or more;

(i) a stone quarry or gravel or sand pit with a production capacity of 1 000 000 t/a or more; or

(j) a metal mine located offshore or on the ocean bed.

## PART VI

## NUCLEAR AND RELATED FACILITIES

19. The proposed construction, decommissioning or abandonment, or an expansion that would result in an increase in production capacity of more than 35 per cent, of

(a) a uranium mining facility on a site that is not within the boundaries of an existing licensed uranium mining facility;

## ANNEXE (suite)

b) d'une usine métallurgique existante qui entraînerait une augmentation de la capacité d'admission de minerai de 50 pour cent ou plus ou de 2 000 t/d ou plus, si l'augmentation faisait passer la capacité d'admission totale de minerai à 4 000 t/d ou plus;

c) d'une mine d'or existante, autre qu'un placer, qui entraînerait une augmentation de la capacité de production de minerai de 50 pour cent ou plus ou de 300 t/d ou plus, si l'augmentation faisait passer la capacité de production totale de minerai à 600 t/d ou plus;

d) d'une mine de charbon existante qui entraînerait une augmentation de la capacité de production de charbon de 50 pour cent ou plus ou de 1 500 t/d ou plus, si l'augmentation faisait passer la capacité de production totale de charbon à 3 000 t/d ou plus;

e) d'une mine de potasse existante qui entraînerait une augmentation de la capacité de production de chlorure de potassium de 50 pour cent ou plus ou de 500 000 t/a ou plus, si l'augmentation faisait passer la capacité de production totale de chlorure de potassium à 1 000 000 t/a ou plus.

18. Projet de construction, de désaffectation ou de fermeture, ou projet d'agrandissement qui entraînerait une augmentation de la capacité de production de plus de 35 pour cent :

a) d'une mine d'amiante;

b) d'une mine de sel d'une capacité de production de saumure de 4 000 t/d ou plus;

c) d'une mine de sel souterraine d'une capacité de production de 20 000 t/d ou plus;

d) d'une mine de graphite d'une capacité de production de 1 500 t/d ou plus;

e) d'une mine de gypse d'une capacité de production de 4 000 t/d ou plus;

f) d'une mine de magnésite d'une capacité de production de 1 500 t/d ou plus;

g) d'une mine de pierre à chaux d'une capacité de production de 12 000 t/d ou plus;

h) d'une mine d'argile d'une capacité de production de 20 000 t/d ou plus;

i) d'une carrière de pierre, de gravier ou de sable d'une capacité de production de 1 000 000 t/a ou plus;

j) d'une mine métallifère située au large des côtes ou sur le fond marin.

## PARTIE VI

ÉTABLISSEMENTS NUCLÉAIRES ET  
ÉTABLISSEMENTS CONNEXES

19. Projet de construction, de désaffectation ou de fermeture, ou projet d'agrandissement qui entraînerait une augmentation de la capacité de production de plus de 35 pour cent :

a) d'une installation d'extraction d'uranium sur un site à l'extérieur des limites d'une installation d'extraction d'uranium agréée existante;

## SCHEDULE—Continued

- (b) a uranium mining facility on a site within the boundaries of an existing licensed uranium mining facility, if the proposal involves processes for milling or uranium tailings management that are not authorized under the existing licence;
- (c) a uranium refining or conversion facility with a uranium production capacity of more than 100 t/a;
- (d) a nuclear reactor that has a production capacity of more than 25 MW (thermal);
- (e) a heavy water production facility that uses hydrogen sulphide and has a heavy water production capacity of more than 10 t/a;
- (f) a facility for the processing of irradiated nuclear fuel with an irradiated nuclear fuel input capacity of more than 100 t/a; or
- (g) a facility that is on a site that is not within the boundaries of an existing licensed nuclear facility and is for
  - (i) the storage of irradiated nuclear fuel, where the facility has an irradiated nuclear fuel inventory capacity of more than 500 t,
  - (ii) the processing or storage of radioactive waste other than irradiated nuclear fuel, where
    - (A) the activity of the throughput of radioactive material with a half-life greater than one year is more than 1 TBq/a, or
    - (B) the activity of the inventory of radioactive material with a half-life greater than one year is more than 100 TBq, or
  - (iii) the disposal of radioactive prescribed substances within the meaning assigned in section 2 of the *Atomic Energy Control Act*.

## PART VII

## INDUSTRIAL FACILITIES

- 20. The proposed construction, decommissioning or abandonment of a pulp mill or pulp and paper mill.
- 21. The proposed expansion of a pulp mill or pulp and paper mill that would result in an increase in its production capacity of more than 35 per cent and more than 100 t/d.
- 22. The proposed construction, decommissioning or abandonment, or an expansion that would result in an increase in its production capacity of more than 35 per cent, of
  - (a) a facility for the production of primary steel with a metal production capacity of 5 000 t/d or more;
  - (b) a non-ferrous metal smelter with a metal production capacity of 1 000 t/d or more;
  - (c) a non-ferrous metal smelter located in the Yukon Territory or Northwest Territories;
  - (d) a facility for the manufacture of chemical products with a production capacity of 250 000 t/a or more;

## ANNEXE (suite)

- b) d'une installation d'extraction d'uranium sur un site à l'intérieur des limites d'une installation d'extraction d'uranium agréée existante, si le projet met en cause des procédés de gestion des résidus d'extraction d'uranium ou des procédés de broyage qui ne sont pas autorisés par la licence existante;
- c) d'une installation de raffinage ou de conversion d'uranium d'une capacité de production d'uranium de plus de 100 t/a;
- d) d'un réacteur nucléaire d'une capacité de production de plus de 25 MW thermiques;
- e) d'une installation de production d'eau lourde utilisant du sulfure d'hydrogène et ayant une capacité de production d'eau lourde de plus de 10 t/a;
- f) d'une installation de traitement du combustible nucléaire irradié d'une capacité d'admission de combustible nucléaire irradié de plus de 100 t/a;
- g) d'une installation qui est située sur un site à l'extérieur des limites d'un établissement nucléaire agréé existant et qui est destinée, selon le cas :
  - (i) au stockage du combustible nucléaire irradié, lorsqu'elle a une capacité de stock de combustible nucléaire irradié de plus de 500 t,
  - (ii) au traitement ou au stockage de déchets radioactifs autres que le combustible nucléaire irradié lorsque :
    - (A) soit l'activité du traitement effectif des matières radioactives d'une période radioactive supérieure à un an correspond à plus de 1 TBq/a,
    - (B) soit l'activité du stock de matières radioactives d'une période radioactive supérieure à un an correspond à plus de 100 TBq;
  - (iii) à la disposition de substances réglementées, au sens de l'article 2 de la *Loi sur le contrôle de l'énergie atomique*, qui sont radioactives.

## PARTIE VII

## INSTALLATIONS INDUSTRIELLES

- 20. Projet de construction, de désaffectation ou de fermeture d'une fabrique de pâtes ou d'une fabrique de pâtes et papiers.
- 21. Projet d'agrandissement d'une fabrique de pâtes ou d'une fabrique de pâtes et papiers qui entraînerait une augmentation de la capacité de production de plus de 35 pour cent et de plus de 100 t/d.
- 22. Projet de construction, de désaffectation ou de fermeture, ou projet d'agrandissement entraînant une augmentation de la capacité de production de plus de 35 pour cent :
  - a) d'une installation de production d'acier primaire d'une capacité de production de métal de 5 000 t/d ou plus;
  - b) d'une fonderie de métaux non ferreux d'une capacité de production de métal de 1 000 t/d ou plus;
  - c) d'une fonderie de métaux non ferreux située au Yukon ou dans les Territoires du Nord-Ouest;
  - d) d'une installation de fabrication de produits chimiques d'une capacité de production de 250 000 t/a ou plus;



## SCHEDULE—Continued

- (e) a facility for the manufacture of pharmaceutical products with a production capacity of 200 t/a or more;
- (f) a facility for the manufacture of wood products that are pressure-treated with chemical products, with a production capacity of 50 000 m<sup>3</sup>/a or more;
- (g) a facility for the manufacture of plywood or particle board with a production capacity of 100 000 m<sup>3</sup>/a or more;
- (h) a facility for the production of respirable natural mineral fibres;
- (i) a leather tannery with a production capacity of 500 000 m<sup>2</sup>/a or more;
- (j) a facility for the manufacture of primary textiles with a production capacity of 50 000 t/a or more;
- (k) a factory for the manufacture of chemical explosives employing chemical processes; or
- (l) a facility for the manufacture of lead-acid batteries.

## PART VIII

## DEFENCE

23. The proposed construction of a military base or station or a training area, range or test establishment for military training or weapons testing.

24. The proposed expansion of a military base or station that would result in an increase in the area of the military base or station of more than 25 per cent, or an increase in the cumulative floor area of existing buildings located on the military base or station of more than 25 per cent.

25. The proposed decommissioning of a military base or station.

26. The proposed testing of weapons for more than five days in a calendar year in an area other than those training areas, ranges and test establishments established under the authority of the Minister of National Defence for the testing of weapons prior to the coming into force of these Regulations.

27. The proposed low-level flying of military fixed-wing jet aircraft for more than 150 days in a calendar year as part of a training program at an altitude below 330 m above ground level on a route or in an area that is not established by or under the authority of the Minister of National Defence or the Chief of the Defence Staff as a route or area set aside for low-level flying training prior to the coming into force of these Regulations.

## ANNEXE (suite)

- e) d'une installation de fabrication de produits pharmaceutiques d'une capacité de production de 200 t/a ou plus;
- f) d'une installation de fabrication de produits du bois traités sous pression avec des produits chimiques d'une capacité de production de 50 000 m<sup>3</sup>/a ou plus;
- g) d'une installation de fabrication de contreplaqué ou de panneaux de particules d'une capacité de production de 100 000 m<sup>3</sup>/a ou plus;
- h) d'une installation de production de fibres minérales naturelles inhalables;
- i) d'une tannerie d'une capacité de production de 500 000 m<sup>2</sup>/a ou plus;
- j) d'une installation de fabrication de textiles primaires d'une capacité de production de 50 000 t/a ou plus;
- k) d'une usine de fabrication d'explosifs chimiques faisant appel à des procédés chimiques;
- l) d'une installation de fabrication d'accumulateurs au plomb.

## PARTIE VIII

## DÉFENSE

23. Projet de construction d'une base ou d'une station militaire, ou d'un secteur d'entraînement, d'un champ de tir ou d'un centre d'essai et d'expérimentation pour l'entraînement militaire ou l'essai d'armes.

24. Projet d'agrandissement d'une base ou d'une station militaire qui entraînerait une augmentation de plus de 25 pour cent de la superficie de la base ou de la station, ou une augmentation de plus de 25 pour cent de la surface de plancher cumulative des bâtiments existants situés sur la base ou la station.

25. Projet de désaffectation d'une base ou d'une station militaire.

26. Projet d'essai d'armes effectué pendant plus de cinq jours au cours d'une année civile dans toute zone, autre qu'un secteur d'entraînement, un champ de tir ou un centre d'essai et d'expérimentation établi pour la mise à l'essai d'armes avant la date d'entrée en vigueur du présent règlement par le ministre de la Défense nationale ou sous son autorité.

27. Projet de vols à basse altitude au moyen d'avions à réaction militaires à voilure fixe, pour des programmes d'entraînement, lorsque les vols se déroulent à une altitude inférieure à 330 m au-dessus du niveau du sol sur des routes ou dans des zones qui ne sont pas établies comme routes ou zones réservées à l'entraînement au vol à basse altitude avant la date d'entrée en vigueur du présent règlement par le ministre de la Défense nationale ou le chef d'état-major de la défense, ou sous son autorité, lorsque les vols se déroulent pendant plus de 150 jours au cours d'une année civile.



SCHEDULE—*Concluded*

## PART IX

## TRANSPORTATION

28. The proposed construction, decommissioning or abandonment of

- (a) a canal or any lock or associated structure to control water levels in the canal;
- (b) a lock or associated structure to control water levels in existing navigable waterways; or
- (c) a marine terminal designed to handle vessels larger than 25 000 DWT.

29. The proposed construction of

- (a) a railway line more than 32 km in length on a new right of way;
- (b) an all-season public highway more than 50 km in length on a new right of way or leading to a community that lacks all-season public highway access; or
- (c) a railway line designed for trains that have an average speed of more than 200 km/h.

30. The proposed construction or decommissioning of

- (a) an aerodrome located within the built-up area of a city or town;
- (b) an airport; or
- (c) an all-season runway with a length of 1 500 m or more.

31. The proposed extension of an all-season runway by 1 500 m or more.

## PART X

## WASTE MANAGEMENT

32. The proposed construction, decommissioning or abandonment of a facility used exclusively for the treatment, incineration, disposal or recycling of hazardous waste, or an expansion of such a facility that would result in an increase in its production capacity of more than 35 per cent.

**N.B.** The Regulatory Impact Analysis Statement for these Regulations appears at page 3388, following SOR/94-636.

ANNEXE (*fin*)

## PARTIE IX

## TRANSPORTS

28. Projet de construction, de désaffectation ou de fermeture :

- a) d'un canal, ou de toute écluse ou structure connexe pour contrôler le niveau d'eau du canal;
- b) d'une écluse ou d'une structure connexe pour contrôler le niveau d'eau dans des voies navigables existantes;
- c) d'un terminal maritime conçu pour recevoir des navires de plus de 25 000 TPL.

29. Projet de construction :

- a) d'une ligne de chemin de fer d'une longueur de plus de 32 km sur une nouvelle emprise;
- b) d'une voie publique permanente qui a une longueur de plus de 50 km sur une nouvelle emprise ou qui mène à une collectivité sans accès à une voie publique permanente;
- c) d'une ligne de chemin de fer conçue pour des trains dont la vitesse moyenne est de plus de 200 km/h.

30. Projet de construction ou de désaffectation :

- a) d'un aérodrome situé à l'intérieur de la zone bâtie d'une ville;
- b) d'un aéroport;
- c) d'une piste utilisable en toute saison d'une longueur de 1 500 m ou plus.

31. Projet de prolongement de 1 500 m ou plus d'une piste utilisable en toute saison.

## PARTIE X

## GESTION DES DÉCHETS

32. Projet de construction, de désaffectation ou de fermeture d'une installation utilisée exclusivement pour le traitement, l'incinération, l'élimination ou le recyclage de déchets dangereux, ou projet d'agrandissement d'une telle installation qui entraînerait une augmentation de la capacité de production de plus de 35 pour cent.

**N.B.** Le résumé de l'étude d'impact de la réglementation de ce règlement se trouve à la page 3388, suite au DORS/94-636.



Registration  
SOR/94-639 7 October, 1994

# CANADIAN ENVIRONMENTAL ASSESSMENT ACT

## Exclusion List Regulations

P.C. 1994-1688 7 October, 1994

Whereas the Governor in Council is satisfied that the environmental effects of certain projects in relation to physical works are insignificant;

Therefore, His Excellency the Governor General in Council, on the recommendation of the Minister of the Environment, pursuant to subparagraph 59(c)(ii) of the Canadian Environmental Assessment Act\*, is pleased hereby to make the annexed Regulations prescribing those projects and classes of projects for which an environmental assessment is not required, effective on the day on which section 59 of the Canadian Environmental Assessment Act comes into force.

## REGULATIONS PRESCRIBING THOSE PROJECTS AND CLASSES OF PROJECTS FOR WHICH AN ENVIRONMENTAL ASSESSMENT IS NOT REQUIRED

### Short Title

1. These Regulations may be cited as the *Exclusion List Regulations*.

### Interpretation

2. In these Regulations,

"control product" means control product as defined in section 2 of the *Pest Control Products Act*; (*produits antiparasitaires*)

"dugout" means an excavation to hold water for consumption by livestock; (*étang-réservoir*)

"expansion" means an increase in the exterior dimensions or the production capacity of a physical work; (*agrandissement*)

"fixed structure" means the electrical, heating, fire-prevention, plumbing or security structure of an existing building, but does not include a structure that is intended to produce goods or energy; (*structure fixe*)

"footprint" means the area of land occupied by a building or structure at ground level; (*superficie au sol*)

"heritage building" means a building that has been designated as a heritage building by a government authority; (*bâtiment du patrimoine*)

"historic canal" means a historic canal set out in column I of an item of Schedule I to the *Historic Canals Regulations* and includes any federal lands appertaining or incident to a historic canal; (*canal historique*)

Enregistrement  
DORS/94-639 7 octobre 1994

# LOI CANADIENNE SUR L'ÉVALUATION ENVIRONNEMENTALE

## Règlement sur la liste d'exclusion

C.P. 1994-1688 7 octobre 1994

Attendu que le gouverneur en conseil est convaincu que les effets environnementaux de certains projets liés à un ouvrage ne sont pas importants,

À ces causes, sur recommandation de la ministre de l'Environnement et en vertu du sous-alinéa 59c)(ii) de la Loi canadienne sur l'évaluation environnementale\*, il plaît à Son Excellence le Gouverneur général en conseil de prendre le Règlement désignant les projets et les catégories de projets pour lesquels une évaluation environnementale n'est pas nécessaire, ci-après, lequel entre en vigueur à la date d'entrée en vigueur de l'article 59 de la Loi canadienne sur l'évaluation environnementale.

## RÈGLEMENT DÉSIGNANT LES PROJETS ET LES CATÉGORIES DE PROJETS POUR LESQUELS UNE ÉVALUATION ENVIRONNEMENTALE N'EST PAS NÉCESSAIRE

### Titre abrégé

1. *Règlement sur la liste d'exclusion*.

### Définitions

2. Les définitions qui suivent s'appliquent au présent règlement.

« agrandissement » Augmentation des dimensions extérieures ou de la capacité de production d'un ouvrage. (*expansion*)

« aire de réparation de filets » Aire revêtue ou finie réservée à la réparation des filets de pêche. (*net repair area*)

« bâtiment du patrimoine » Bâtiment qui a été désigné à ce titre par une autorité gouvernementale. (*heritage building*)

« canal historique » Canal historique mentionné à la colonne I de l'annexe I du *Règlement sur les canaux historiques*, y compris le territoire domanial qui est contiguë ou connexe au canal. (*historic canal*)

« emprise » Terrain qui est assujéti à un droit de passage et qui est aménagé pour une ligne de télécommunications, une ligne de transport d'électricité, une station de commutation, un pipeline d'hydrocarbures, un chemin de fer ou une route. (*right of way*)

« établissement nucléaire » S'entend au sens de l'article 2 du *Règlement sur le contrôle de l'énergie atomique*. (*nuclear facility*)

« étang-réservoir » Excavation servant à stocker de l'eau pour abreuver le bétail. (*dugout*)

\* S.C. 1992, c. 37

\* L.C. 1992, ch. 37



"hook-up" means a structure or line that connects a building to a main gas, sewer, water, electrical transmission or telecommunication line; (*raccordement*)

"international electrical transmission line" means an electrical transmission line constructed or operated for the purpose of transmitting electricity from a place in Canada to a place outside Canada or to a place in Canada from a place outside Canada; (*ligne de transport d'électricité internationale*)

"irrigation structure" means one of the following that is used for irrigating agricultural land:

- (a) a buried pipeline,
- (b) a pipe,
- (c) a pump,
- (d) a pump house,
- (e) a reservoir,
- (f) a drain, or
- (g) a canal lined with asphalt, wood, concrete or other material; (*structure d'irrigation*)

"modification" means an alteration to a physical work that introduces a new structure or eliminates an existing structure and does not alter the purpose or function of the work, but does not include an expansion; (*modification*)

"national historic site" means

- (a) a place that is marked or commemorated pursuant to section 3 of the *Historic Sites and Monuments Act* and is under the responsibility of the Minister of Communications, and
- (b) land set apart as a National Historic Park under Part II of the *National Parks Act*; (*lieu historique national*)

"national park" means

- (a) a park described in Schedule I to the *National Parks Act*, and
- (b) a park established pursuant to a federal-provincial agreement that is under the responsibility of the Minister of Communications and is not described in Schedule I to the *National Parks Act*; (*parc national*)

"national park reserve" means a reserve established under *An Act to amend the National Parks Act and to amend An Act to amend the National Parks Act*, chapter 48 of the Statutes of Canada, 1988, and the lands described in the schedule to the *Mingan Archipelago National Park Act*; (*réserve foncière*)

"net repair area" means a paved or finished area set aside for the repair of fishing nets; (*aire de réparation de filets*)

"nuclear facility" means nuclear facility as defined in section 2 of the *Atomic Energy Control Regulations*; (*établissement nucléaire*)

"oil and gas pipeline" means a pipeline that is used, or is intended to be used, for the transmission of hydrocarbons alone or with any other commodity; (*pipeline d'hydrocarbures*)

"polluting substance" means a substance that, if added to a water body, is likely to degrade or alter or form part of a process of degradation or alteration of the physical, chemical or biological conditions of the water body to an extent that is detrimental to its use by human beings, animals, fish or plants; (*substance polluante*)

« lieu historique national »

- a) Endroit signalé en vertu de l'article 3 de la *Loi sur les lieux et monuments historiques* et placé sous l'autorité du ministre des Communications;
- b) terre érigée en parc historique national en vertu de la partie II de la *Loi sur les parcs nationaux*. (*national historic site*)

« ligne de transport d'électricité internationale » Ligne de transport d'électricité construite ou exploitée pour transporter de l'électricité d'un lieu situé au Canada à un lieu situé à l'étranger, ou d'un lieu situé à l'étranger à un lieu situé au Canada. (*international electrical transmission line*)

« modification » Transformations apportées à un ouvrage qui donnent lieu à l'érection d'une nouvelle structure ou à l'enlèvement d'une structure existante et qui n'en changent pas la fonction. La présente définition ne vise pas l'agrandissement. (*modification*)

« parc national »

- a) Parc décrit à l'annexe I de la *Loi sur les parcs nationaux*;
- b) parc érigé conformément à un accord fédéral-provincial et placé sous l'autorité du ministre des Communications, mais non décrit à cette annexe. (*national park*)

« pipeline d'hydrocarbures » Pipeline utilisé, ou destiné à être utilisé, pour le transport d'hydrocarbures, seuls ou avec tout autre produit. (*oil and gas pipeline*)

« plan d'eau » Tout plan d'eau, notamment les canaux, réservoirs, terres humides et océans, jusqu'à la laisse des hautes eaux. La présente définition ne vise pas les étangs de traitement des eaux usées et les étangs de résidus miniers. (*water body*)

« produits antiparasitaires » S'entend au sens de l'article 2 de la *Loi sur les produits antiparasitaires*. (*control product*)

« raccordement » Structure ou ligne reliant un bâtiment à une conduite principale de gaz, d'égout ou d'eau, ou à une ligne principale de transport d'électricité ou de télécommunications. (*hook-up*)

« réserve foncière » Réserve constituée en vertu de la *Loi modifiant la Loi sur les parcs nationaux et la Loi modifiant la Loi sur les parcs nationaux*, chapitre 48 des Lois du Canada (1988), et les terres définies à l'annexe de la *Loi sur le parc national de l'archipel de Mingan*. (*national park reserve*)

« structure d'irrigation » L'une des structures suivantes utilisées à des fins d'irrigation des terres agricoles :

- a) un pipeline enfoui;
- b) une conduite;
- c) une pompe;
- d) une station de pompage;
- e) un réservoir;
- f) un drain;
- g) un canal muni d'un revêtement intérieur en asphalte, en bois, en béton ou en un autre matériau. (*irrigation structure*)

« structure fixe » Système d'électricité, de chauffage, de prévention des incendies, de plomberie ou de sécurité d'un bâtiment existant. La présente définition ne vise pas les systèmes destinés à la production de biens ou d'énergie. (*fixed structure*)

"right of way" means land that is subject to a right of way and that is developed for a telecommunication or electrical transmission line, a switching station, an oil and gas pipeline, a railway or a road; (*emprise*)

"water body" means a water body, including a canal, reservoir, an ocean and a wetland, up to the high-water mark, but does not include a sewage or waste treatment lagoon or a mine tailings pond; (*plan d'eau*)

"wetland" means a swamp, marsh, bog, fen or other land that is covered by water during at least three consecutive months of the year. (*terres humides*)

#### General

3. The projects and classes of projects that are set out in Schedule I and carried out in places other than a national park, national park reserve, national historic site or historic canal are prescribed projects and classes of projects for which an environmental assessment is not required.

4. The projects and classes of projects that are set out in Schedule II and carried out in a national park, national park reserve or national historic site are prescribed projects and classes of projects for which an environmental assessment is not required.

5. The projects and classes of projects that are set out in Schedule II or III and carried out in a historic canal are prescribed projects and classes of projects for which an environmental assessment is not required.

#### SCHEDULE I (Section 3)

##### EXCLUSION LIST FOR PLACES OTHER THAN NATIONAL PARKS, NATIONAL PARK RESERVES, NATIONAL HISTORIC SITES OR HISTORIC CANALS

#### PART I

##### GENERAL

1. The proposed maintenance or repair of an existing physical work.

2. The proposed operation of an existing physical work that is the same as an operation for which an environmental assessment has been previously conducted under either the *Canadian Environmental Assessment Act* or the *Environmental Assessment Review Process Guidelines Order* where

(a) as a result of the assessment, the environmental effects have been determined to be insignificant, taking into account the implementation of mitigation measures, if any; and

(b) the mitigation measures and follow-up program, if any, have been substantially implemented.

« substance polluante » Toute substance qui, ajoutée à un plan d'eau, est susceptible d'en dégrader ou d'en altérer l'état physique, chimique ou biologique ou de contribuer au processus de dégradation ou d'altération de cet état, au point de nuire à son utilisation par les êtres humains, les animaux, les poissons ou les végétaux. (*polluting substance*)

« superficie au sol » La surface de terrain occupée au niveau du sol par un bâtiment ou une structure. (*footprint*)

« terres humides » Marécages, marais ou autres terres qui sont couverts d'eau durant au moins trois mois consécutifs au cours de l'année. (*wetland*)

#### Dispositions générales

3. Les projets et les catégories de projets figurant à l'annexe I qui sont réalisés dans des lieux autres que des parcs nationaux, réserves foncières, lieux historiques nationaux ou canaux historiques sont ceux pour lesquels une évaluation environnementale n'est pas nécessaire.

4. Les projets et les catégories de projets figurant à l'annexe II qui sont réalisés dans un parc national, une réserve foncière ou un lieu historique national sont ceux pour lesquels une évaluation environnementale n'est pas nécessaire.

5. Les projets et les catégories de projets figurant aux annexes II ou III qui sont réalisés dans un canal historique sont ceux pour lesquels une évaluation environnementale n'est pas nécessaire.

#### ANNEXE I (article 3)

##### LISTE D'EXCLUSION POUR LES LIEUX AUTRES QUE LES PARCS NATIONAUX, LES RÉSERVES FONCIÈRES, LES LIEUX HISTORIQUES NATIONAUX ET LES CANAUX HISTORIQUES

#### PARTIE I

##### DISPOSITIONS GÉNÉRALES

1. Projet d'entretien ou de réparation d'un ouvrage existant.

2. Projet d'exploitation d'un ouvrage existant qui est identique à une exploitation qui a fait l'objet d'une évaluation environnementale aux termes de la *Loi canadienne sur l'évaluation environnementale* ou du *Décret sur les lignes directrices visant le processus d'évaluation et d'examen en matière d'environnement*, lorsque :

a) d'une part, à la suite de l'évaluation, les effets environnementaux ont été jugés sans importance, compte tenu de l'application des mesures d'atténuation, le cas échéant;

b) d'autre part, les mesures d'atténuation et le programme de suivi, le cas échéant, ont en grande partie été appliqués.



## SCHEDULE I—Continued

## ANNEXE I (suite)

3. The proposed construction or installation of a building with a footprint of less than 100 m<sup>2</sup> and a height of less than 5 m that would not

- (a) be carried out in or on or within 30 m of a water body; and
- (b) involve the likely release of a polluting substance into a water body.

4. The proposed expansion or modification of an existing building, including its fixed structures, that would not

- (a) increase the footprint or height of the building by more than 10 per cent;
- (b) be carried out in or on or within 30 m of a water body; and
- (c) involve the likely release of a polluting substance into a water body.

5. The proposed construction, installation, expansion or modification of an environmental scientific data collection instrument and its housing and enclosure, other than a water-quality data collection instrument and its housing and enclosure, that would not

- (a) be carried out in or on or within 30 m of a water body; and
- (b) involve the likely release of a polluting substance into a water body.

6. The proposed construction, installation, expansion or modification of a ramp, door or handrail to facilitate wheelchair access.

7. The proposed construction, installation, expansion or modification of a temporary exhibition structure inside, or affixed to the exterior of, an existing building.

8. The proposed construction of a sidewalk or boardwalk, or a parking lot with a parking capacity of 10 automobiles or fewer, where the construction

- (a) would be contiguous to an existing building;
- (b) would not be carried out in or on or within 30 m of a water body; and
- (c) would not involve the likely release of a polluting substance into a water body.

9. The proposed expansion or modification of an existing sidewalk, boardwalk or parking lot that would not

- (a) increase the area of the sidewalk, boardwalk or parking lot by more than 10 per cent;
- (b) be carried out in or on or within 30 m of a water body; and
- (c) involve the likely release of a polluting substance into a water body.

10. The proposed expansion or modification of an existing fence that would not

- (a) increase the length or height of the fence by more than 10 per cent;

3. Projet de construction ou d'installation d'un bâtiment d'une superficie au sol de moins de 100 m<sup>2</sup> et d'une hauteur de moins de 5 m, qui, à la fois :

- a) ne serait pas réalisé dans ou sur un plan d'eau ou à moins de 30 m de celui-ci;
- b) n'entraînerait vraisemblablement pas le rejet d'une substance polluante dans un plan d'eau.

4. Projet d'agrandissement ou de modification d'un bâtiment existant, y compris ses structures fixes, qui, à la fois :

- a) n'en augmenterait pas la superficie au sol ou la hauteur de plus de 10 pour cent;
- b) ne serait pas réalisé dans ou sur un plan d'eau ou à moins de 30 m de celui-ci;
- c) n'entraînerait vraisemblablement pas le rejet d'une substance polluante dans un plan d'eau.

5. Projet de construction, d'installation, d'agrandissement ou de modification d'un instrument de collecte de données scientifiques sur l'environnement, ainsi que de son boîtier et de son enceinte, autre qu'un instrument de collecte de données sur la qualité de l'eau, y compris son boîtier et son enceinte, qui, à la fois :

- a) ne serait pas réalisé dans ou sur un plan d'eau ou à moins de 30 m de celui-ci;
- b) n'entraînerait vraisemblablement pas le rejet d'une substance polluante dans un plan d'eau.

6. Projet de construction, d'installation, d'agrandissement ou de modification d'une rampe, d'une porte ou d'une main courante pour faciliter l'accès en fauteuil roulant.

7. Projet de construction, d'installation, d'agrandissement ou de modification d'une structure d'exposition temporaire située à l'intérieur d'un bâtiment existant ou fixée à l'extérieur de celui-ci.

8. Projet de construction d'un trottoir, d'un passage en bois ou d'un parc de stationnement pour au plus 10 automobiles, lorsque, à la fois :

- a) le trottoir, le passage en bois ou le parc de stationnement serait contigu à un bâtiment existant;
- b) le projet ne serait pas réalisé dans ou sur un plan d'eau ou à moins de 30 m de celui-ci;
- c) le projet n'entraînerait vraisemblablement pas le rejet d'une substance polluante dans un plan d'eau.

9. Projet d'agrandissement ou de modification d'un trottoir, d'un passage en bois ou d'un parc de stationnement existant, qui, à la fois :

- a) n'en augmenterait pas la superficie de plus de 10 pour cent;
- b) ne serait pas réalisé dans ou sur un plan d'eau ou à moins de 30 m de celui-ci;
- c) n'entraînerait vraisemblablement pas le rejet d'une substance polluante dans un plan d'eau.

10. Projet d'agrandissement ou de modification d'une clôture existante, qui, à la fois :

- a) n'en augmenterait pas la longueur ou la hauteur de plus de 10 pour cent;



## SCHEDULE I—Continued

## ANNEXE I (suite)

- (b) be carried out in or on or within 30 m of a water body; and
- (c) involve the likely release of a polluting substance into a water body.
11. The proposed construction, installation, expansion or modification of a hydrant or hook-up, where
- (a) the hydrant or hook-up would be or is part of an existing farm or municipal system of distribution; and
- (b) the construction, installation, expansion or modification would not involve the crossing of a water body other than an aerial crossing by a telecommunication or electrical transmission line.
12. The proposed construction, installation, expansion or modification of a sign no surface of which would have or has an area of more than 25 m<sup>2</sup> and which would be or is situated at a distance of less than 15 m from an existing building.
13. The proposed construction, installation, expansion or modification of a radiocommunication antenna and its supporting structure that
- (a) would not be carried out in or on or within 30 m of a water body;
- (b) would not involve the likely release of a polluting substance into a water body;
- (c) would have one of the following characteristics:
- (i) the antenna and supporting structure are affixed to an existing building,
- (ii) the antenna and supporting structure are situated at a distance of less than 15 m from an existing building, and
- (iii) neither the antenna nor its supporting structure nor any of its supporting lines have a footprint of more than 25 m<sup>2</sup>; and
- (d) in the case of subparagraph (c)(iii), would not require a permit under paragraph 25(1)(a) or 27(a) of the *Territorial Land Use Regulations*.
14. The proposed construction, installation, expansion or modification of a temporary field camp used for scientific or technical research, or for reforestation, where
- (a) the temporary field camp would be in use during fewer than 200 person-days; and
- (b) the construction, installation, expansion or modification would not
- (i) be carried out in or on or within 30 m of a water body, and
- (ii) involve the likely release of a polluting substance into a water body.
15. The proposed expansion or modification of an existing road that would be carried out on the existing road right of way and would not
- (a) lengthen the road;
- (b) widen the road by more than 15 per cent;
- (c) be carried out in or on or within 30 m of a water body; and
- (d) involve the likely release of a polluting substance into a water body.
- b) ne serait pas réalisé dans ou sur un plan d'eau ou à moins de 30 m de celui-ci;
- c) n'entraînerait vraisemblablement pas le rejet d'une substance polluante dans un plan d'eau.
11. Projet de construction, d'installation, d'agrandissement ou de modification d'une prise d'eau ou d'un raccordement, lorsque, à la fois :
- a) la prise d'eau ou le raccordement ferait ou fait partie d'un réseau de distribution agricole ou municipal existant;
- b) le projet n'entraînerait pas le franchissement d'un plan d'eau autre que le franchissement aérien par une ligne de télécommunications ou une ligne de transport d'électricité.
12. Projet de construction, d'installation, d'agrandissement ou de modification d'un panneau dont aucune des faces n'aurait ou n'a une superficie de plus de 25 m<sup>2</sup> et qui serait ou est situé à moins de 15 m d'un bâtiment existant.
13. Projet de construction, d'installation, d'agrandissement ou de modification d'une antenne de radiocommunications et de sa structure portante qui, à la fois :
- a) ne serait pas réalisé dans ou sur un plan d'eau ou à moins de 30 m de celui-ci;
- b) n'entraînerait vraisemblablement pas le rejet d'une substance polluante dans un plan d'eau;
- c) comporterait l'une des caractéristiques suivantes :
- (i) l'antenne et sa structure portante sont fixées à un bâtiment existant,
- (ii) l'antenne et sa structure portante sont situées à moins de 15 m d'un bâtiment existant,
- (iii) l'antenne, sa structure portante et ses haubans ont chacun une superficie au sol d'au plus 25 m<sup>2</sup>;
- d) dans le cas du sous-alinéa c)(iii), ne nécessiterait pas le permis prévu aux alinéas 25(1)a) ou 27a) du *Règlement sur l'utilisation des terres territoriales*.
14. Projet de construction, d'installation, d'agrandissement ou de modification d'un campement temporaire servant à la recherche scientifique ou technique ou au reboisement, lorsque, à la fois :
- a) le campement temporaire serait utilisé pour moins de 200 jours-personnes;
- b) le projet :
- (i) d'une part, ne serait pas réalisé dans ou sur un plan d'eau ou à moins de 30 m de celui-ci,
- (ii) d'autre part, n'entraînerait vraisemblablement pas le rejet d'une substance polluante dans un plan d'eau.
15. Projet d'agrandissement ou de modification d'une route existante qui serait réalisé sur son emprise existante et qui, à la fois :
- a) ne prolongerait pas la route;
- b) n'élargirait pas la route de plus de 15 pour cent;
- c) ne serait pas réalisé dans ou sur un plan d'eau ou à moins de 30 m de celui-ci;
- d) n'entraînerait vraisemblablement pas le rejet d'une substance polluante dans un plan d'eau.

## SCHEDULE I—Continued

16. The proposed demolition of an existing building with a floor area of less than 1 000 m<sup>2</sup> that would not

- (a) be carried out in or on or within 30 m of a water body;
- (b) involve the likely release of a polluting substance into a water body; and
- (c) be carried out within 30 m of another building.

17. The proposed construction, installation or modification of Canada—United States international boundary monuments.

## PART II

## AGRICULTURE

18. The proposed modification of an existing irrigation structure that would not involve the likely release of a polluting substance into a water body.

19. The proposed construction, expansion or modification of a domestic or farm water supply well, pump house, water-tank loading facility or dugout on agricultural land that would not

- (a) be carried out in or on or within 30 m of a water body; and
- (b) involve the likely release of a polluting substance into a water body.

20. The proposed construction, expansion or modification of a centre pivot or side roll sprinkler on agricultural land that would not

- (a) be carried out in or on or within 30 m of a water body; and
- (b) involve the likely release of a polluting substance into a water body.

## PART III

## ELECTRICAL AND NUCLEAR ENERGY

21. The proposed construction or installation of an electrical transmission line, other than an international electrical transmission line, with a voltage of not more than 130 kV, where the construction or installation would not

- (a) be carried out beyond an existing right of way;
- (b) involve the likely release of a polluting substance into a water body; and
- (c) involve the placement in or on a water body of the supporting structures for the electrical transmission line.

22. The proposed expansion or modification of an existing telecommunication or electrical transmission line, other than an international electrical transmission line, that would not

## ANNEXE I (suite)

16. Projet de démolition d'un bâtiment existant d'une surface de plancher de moins de 1 000 m<sup>2</sup>, qui, à la fois :

- a) ne serait pas réalisé dans ou sur un plan d'eau ou à moins de 30 m de celui-ci;
- b) n'entraînerait vraisemblablement pas le rejet d'une substance polluante dans un plan d'eau;
- c) ne serait pas réalisé à moins de 30 m d'un autre bâtiment.

17. Projet de construction, d'installation ou de modification de bornes frontières entre le Canada et les États-Unis.

## PARTIE II

## AGRICULTURE

18. Projet de modification d'une structure d'irrigation existante qui n'entraînerait vraisemblablement pas le rejet d'une substance polluante dans un plan d'eau.

19. Projet de construction, d'agrandissement ou de modification d'un puits d'approvisionnement domestique ou agricole, d'une station de pompage, d'une installation de chargement de réservoir à eau ou d'un étang-réservoir sur une terre agricole, qui, à la fois :

- a) ne serait pas réalisé dans ou sur un plan d'eau ou à moins de 30 m de celui-ci;
- b) n'entraînerait vraisemblablement pas le rejet d'une substance polluante dans un plan d'eau.

20. Projet de construction, d'agrandissement ou de modification d'un système d'irrigation à arroseur géant ou d'un arroseur automoteur à rampe mobile en ligne sur une terre agricole, qui, à la fois :

- a) ne serait pas réalisé dans ou sur un plan d'eau ou à moins de 30 m de celui-ci;
- b) n'entraînerait vraisemblablement pas le rejet d'une substance polluante dans un plan d'eau.

## PARTIE III

## ÉNERGIE ÉLECTRIQUE ET NUCLÉAIRE

21. Projet de construction ou d'installation d'une ligne de transport d'électricité, autre qu'une ligne de transport d'électricité internationale, d'une tension d'au plus 130 kV, qui, à la fois :

- a) serait réalisé sur une emprise existante;
- b) n'entraînerait vraisemblablement pas le rejet d'une substance polluante dans un plan d'eau;
- c) n'exigerait pas la mise en place des structures portantes de la ligne dans ou sur un plan d'eau.

22. Projet d'agrandissement ou de modification d'une ligne de télécommunications existante ou d'une ligne de transport d'électricité existante, autre qu'une ligne de transport d'électricité internationale, qui, à la fois :



SCHEDULE I—*Continued*ANNEXE I (*suite*)

- (a) lengthen the line by more than 10 per cent;
- (b) be carried out beyond an existing right of way;
- (c) involve the likely release of a polluting substance into a water body; and
- (d) involve the placement in or on a water body of the supporting structures for the telecommunication or electrical transmission line.

23. The proposed construction or installation of a switching station associated with a telecommunication or electrical transmission line with a voltage of not more than 130 kV, other than an international transmission line, where the construction or installation would not

- (a) be carried out beyond an existing right of way;
- (b) be carried out in or on or within 30 m of a water body; and
- (c) involve the likely release of a polluting substance into a water body.

24. The proposed expansion or modification of an existing switching station associated with a telecommunication or electrical transmission line, where the expansion or modification would not

- (a) be carried out beyond an existing right of way;
- (b) be carried out in or on or within 30 m of a water body; and
- (c) involve the likely release of a polluting substance into a water body.

25. The proposed construction, installation, expansion or modification of an international electrical transmission line with a voltage of not more than 50 kV that would not

- (a) be carried out beyond an existing right of way;
- (b) extend more than 4 km outside Canada;
- (c) involve the likely release of a polluting substance into a water body; and
- (d) involve the placement of the supporting structures for the line in or on or within 30 m of a water body.

26. The proposed construction, installation, operation or modification of a particle accelerator, where the particle accelerator is

- (a) an electron linac or cyclotron accelerator capable of operating at no more than 50 MeV; or
- (b) an electrostatic accelerator capable of operating at no more than 5 MV.

27. The proposed construction, installation, operation, expansion, modification, decommissioning or abandonment of a physical work that requires a licence under subsection 7(1) of the *Atomic Energy Control Regulations*, where

- (a) the physical work has a floor area of 100 m<sup>2</sup> or less and a height of 5 m or less;
- (b) in the case of a proposed expansion, the footprint or height of the physical work is not increased by more than 10 per cent; and
- (c) the physical work is not one of the following:

- a) ne prolongerait pas la ligne de plus de 10 pour cent;
- b) serait réalisé sur une emprise existante;
- c) n'entraînerait vraisemblablement pas le rejet d'une substance polluante dans un plan d'eau;
- d) n'exigerait pas la mise en place des structures portantes de la ligne dans ou sur un plan d'eau.

23. Projet de construction ou d'installation d'une station de commutation associée à une ligne de télécommunications ou à une ligne de transport d'électricité d'une tension d'au plus 130 kV, autre qu'une ligne de transport d'électricité internationale, qui, à la fois :

- a) serait réalisé sur une emprise existante;
- b) ne serait pas réalisé dans ou sur un plan d'eau ou à moins de 30 m de celui-ci;
- c) n'entraînerait vraisemblablement pas le rejet d'une substance polluante dans un plan d'eau.

24. Projet d'agrandissement ou de modification d'une station de commutation existante associée à une ligne de télécommunications ou à une ligne de transport d'électricité, qui, à la fois :

- a) serait réalisé sur une emprise existante;
- b) ne serait pas réalisé dans ou sur un plan d'eau ou à moins de 30 m de celui-ci;
- c) n'entraînerait vraisemblablement pas le rejet d'une substance polluante dans un plan d'eau.

25. Projet de construction, d'installation, d'agrandissement ou de modification d'une ligne de transport d'électricité internationale d'une tension d'au plus 50 kV, qui, à la fois :

- a) serait réalisé sur une emprise existante;
- b) n'élèverait pas la ligne sur plus de 4 km à l'extérieur du Canada;
- c) n'entraînerait vraisemblablement pas le rejet d'une substance polluante dans un plan d'eau;
- d) n'exigerait pas la mise en place des structures portantes de la ligne dans ou sur un plan d'eau ou à moins de 30 m de celui-ci.

26. Projet de construction, d'installation, d'exploitation ou de modification d'un des accélérateurs de particules suivants :

- a) un accélérateur linéaire d'électrons ou un cyclotron pouvant fonctionner à au plus 50 MeV;
- b) un accélérateur électrostatique pouvant fonctionner à au plus 5 MV.

27. Projet de construction, d'installation, d'exploitation, d'agrandissement, de modification, de désaffectation ou d'abandon d'un ouvrage, qui nécessite le permis prévu au paragraphe 7(1) du *Règlement sur le contrôle de l'énergie atomique*, lorsque, à la fois :

- a) l'ouvrage a une superficie au sol d'au plus 100 m<sup>2</sup> et une hauteur d'au plus 5 m;
- b) dans le cas de l'agrandissement, sa superficie au sol ou sa hauteur n'augmenterait pas de plus de 10 pour cent;
- c) l'ouvrage n'est pas l'un des suivants :



## SCHEDULE I—Continued

(i) a facility for the separation and processing of radioisotopes or a facility for the manufacture of sealed radiation sources, where the activity of the resident inventory of radioactive material in that facility is more than 1 PBq or where the activity of the annual throughput of radioactive material is more than 1 PBq, and

(ii) an irradiation facility that employs a pool-type irradiator, where the form and composition of the radioactive material within the sealed radiation source is such that the material would be readily dispersed in air or easily dissolved in water if the seal were ruptured.

28. The proposed construction, installation, operation, modification, decommissioning or abandonment of monitoring, safety or security equipment that is affixed or adjacent to an existing nuclear facility.

29. The proposed modification of an existing nuclear facility or an existing facility referred to in subparagraph 27(c)(i) or (ii) that is the same as a modification for which an environmental assessment has been previously conducted under either the *Canadian Environmental Assessment Act* or the *Environmental Assessment Review Process Guidelines Order*, where

(a) as a result of the assessment, the environmental effects have been determined to be insignificant taking into account the implementation of mitigation measures, if any; and

(b) the mitigation measures and follow-up program, if any, have been substantially implemented.

30. The proposed expansion or modification of any fixed structure within an existing nuclear facility or an existing facility referred to in subparagraph 27(c)(i) or (ii) that would not

(a) be carried out in or on or within 30 m of a water body; and

(b) involve the likely release of a polluting substance into a water body.

## PART IV

## FORESTRY

31. The proposed expansion or modification of an existing drainage structure, other than a drainage structure connected to a water body, on forested land, where the expansion or modification

(a) would not lengthen the structure by more than 10 per cent; and

(b) would be carried out in a place other than a place in the Yukon Territory or the Northwest Territories.

## ANNEXE I (suite)

(i) une installation servant à la séparation et au traitement des radio-isotopes ou une installation de fabrication de sources radioactives scellées, lorsque l'activité du stock de matières radioactives sur place est supérieure à 1 PBq ou que l'activité du traitement effectif des matières radioactives est supérieure à 1 PBq,

(ii) une installation d'irradiation à irradiateur de type intégré, lorsque la forme et la composition de la matière radioactive à l'intérieur de la source radioactive scellée sont telles que la matière se disperserait rapidement dans l'air ou se dissoudrait facilement dans l'eau advenant une rupture du sceau.

28. Projet de construction, d'installation, d'exploitation, de modification, de désaffectation ou d'abandon d'équipement de surveillance ou de sécurité fixé à un établissement nucléaire existant ou adjacent à celui-ci.

29. Projet de modification d'un établissement nucléaire existant ou d'une installation existante visée aux sous-alinéas 27c)(i) ou (ii) qui est identique à une modification qui a fait l'objet d'une évaluation environnementale aux termes de la *Loi canadienne sur l'évaluation environnementale* ou du *Décret sur les lignes directrices visant le processus d'évaluation et d'examen en matière d'environnement*, lorsque :

a) d'une part, à la suite de l'évaluation, les effets environnementaux ont été jugés sans importance, compte tenu de l'application des mesures d'atténuation, le cas échéant;

b) d'autre part, les mesures d'atténuation et le programme de suivi, le cas échéant, ont en grande partie été appliqués.

30. Projet d'agrandissement ou de modification de toute structure fixe à l'intérieur d'un établissement nucléaire existant ou d'une installation existante visée aux sous-alinéas 27c)(i) ou (ii), qui, à la fois :

a) ne serait pas réalisé dans ou sur un plan d'eau ou à moins de 30 m de celui-ci;

b) n'entraînerait vraisemblablement pas le rejet d'une substance polluante dans un plan d'eau.

## PARTIE IV

## FORÊTS

31. Projet d'agrandissement ou de modification d'une structure de drainage existante, autre qu'une structure de drainage raccordée à un plan d'eau, sur une terre boisée, qui, à la fois :

a) ne prolongerait pas la structure de plus de 10 pour cent;

b) serait réalisé ailleurs qu'au Yukon ou que dans les Territoires du Nord-Ouest.

SCHEDULE I—*Continued*ANNEXE I (*suite*)

## PART V

## PARTIE V

## WATER PROJECTS

## PROJETS HYDRAULIQUES

32. The proposed construction, expansion, modification or demolition that would not involve the likely release of a polluting substance into a water body, of a structure, such as a bait storage depot, net repair area or patrol cabin, that

- (a) would be or is located on land;
- (b) would be or is associated with fishing or the use of small pleasure craft; and
- (c) would have or has a floor area of less than 100 m<sup>2</sup> and a height of less than 5 m.

33. The proposed construction, installation, expansion or modification of a fish habitat improvement structure that would not involve the use of heavy machinery.

34. The proposed modification of an existing wharf, other than a floating wharf, or of an existing breakwater that is accessible by land, where the modification would not

- (a) be carried out below the high-water mark of the breakwater or wharf;
- (b) involve dredging; and
- (c) involve the likely release of a polluting substance into a water body.

35. The proposed re-installation, expansion or modification of an existing floating wharf that would not increase its area by more than 10 per cent.

36. The proposed demolition of an existing wharf that would not involve

- (a) the use of explosives; and
- (b) the likely release of a polluting substance into a water body.

32. Projet qui n'entraînerait vraisemblablement pas le rejet d'une substance polluante dans un plan d'eau et qui vise la construction, l'agrandissement, la modification ou la démolition d'une structure, notamment un dépôt d'appâts, une aire de réparation de filets et un poste de patrouille, qui, à la fois :

- a) serait ou est située sur la terre;
- b) serait ou est liée à la pêche ou à la navigation de plaisance;
- c) aurait ou a une superficie au sol de moins de 100 m<sup>2</sup> et une hauteur de moins de 5 m.

33. Projet de construction, d'installation, d'agrandissement ou de modification d'une structure visant à améliorer l'habitat du poisson, qui n'exigerait l'utilisation d'aucune machinerie lourde.

34. Projet de modification d'un brise-lames existant accessible par voie terrestre, ou d'un quai existant autre qu'un quai flottant, qui, à la fois :

- a) serait réalisé au-dessous de la laisse des hautes eaux du brise-lames ou du quai;
- b) n'entraînerait aucun dragage;
- c) n'entraînerait vraisemblablement pas le rejet d'une substance polluante dans un plan d'eau.

35. Projet de réinstallation, d'agrandissement ou de modification d'un quai flottant existant qui n'augmenterait pas sa superficie de plus de 10 pour cent.

36. Projet de démolition d'un quai existant, qui, à la fois :

- a) n'entraînerait pas l'utilisation d'explosifs;
- b) n'entraînerait vraisemblablement pas le rejet d'une substance polluante dans un plan d'eau.

## PART VI

## PARTIE VI

## TRANSPORTATION

## TRANSPORTS

37. The proposed expansion or modification of an existing pavement or gravel area within the boundary of an airport, as defined in subsection 3(1) of the *Aeronautics Act*, that would not

- (a) increase the pavement or gravel area by more than 10 per cent;
- (b) be carried out in or on or within 30 m of a water body; and
- (c) involve the likely release of a polluting substance into a water body.

38. The proposed modification of existing aircraft manoeuvring lights or navigation aids.

37. Projet d'agrandissement ou de modification d'une surface existante couverte d'un revêtement ou de gravier dans les limites d'un aéroport, au sens du paragraphe 3(1) de la *Loi sur l'aéronautique*, qui, à la fois :

- a) n'augmenterait pas la surface de plus de 10 pour cent;
- b) ne serait pas réalisé dans ou sur un plan d'eau ou à moins de 30 m de celui-ci;
- c) n'entraînerait vraisemblablement pas le rejet d'une substance polluante dans un plan d'eau.

38. Projet de modification de balises de manoeuvre d'aéronefs existantes ou d'aides à la navigation existantes.



SCHEDULE I—*Concluded*

39. The proposed construction, installation, expansion or modification of an automatic warning structure at a railway level crossing.

40. The proposed construction, installation, expansion or modification of a railway traffic control signal structure on an existing railway right of way.

41. The proposed modification of that part of an existing oil and gas pipeline, sewer or drain that crosses under a railway or road and is within the existing railway or road right of way.

42. The proposed modification of that part of an existing culvert that

- (a) is not connected to a water body;
- (b) crosses under a railway or road; and
- (c) is within the existing railway or road right of way.

43. The proposed modification, other than a deviation, of an existing railway track or bed that would not

- (a) be carried out in or on or within 30 m of a water body; and
- (b) involve the likely release of a polluting substance into a water body.

44. The proposed modification of an existing road crossing, as defined in subsection 4(1) of the *Railway Safety Act*, where the modification would

- (a) be carried out on an existing right of way;
- (b) not be subject to an order under subsection 202(1) of the *Railway Act*;
- (c) not be carried out in or on or within 30 m of a water body; and
- (d) not involve the likely release of a polluting substance into a water body.

SCHEDULE II  
(Sections 4 and 5)EXCLUSION LIST FOR NATIONAL PARKS, NATIONAL  
PARK RESERVES, NATIONAL HISTORIC SITES AND  
HISTORIC CANALS

1. The proposed modification, maintenance or repair of an existing building, other than a building referred to in item 2, including its fixed structures, that would not

- (a) increase the footprint or height of the building;
- (b) involve a heritage building;
- (c) involve a change in the method of sewage disposal, or an increase in the amount of sewage, waste or emissions;
- (d) involve any excavation beyond the footprint of the building;

ANNEXE I (*fin*)

39. Projet de construction, d'installation, d'agrandissement ou de modification d'une structure automatique d'avertissement à un passage à niveau.

40. Projet de construction, d'installation, d'agrandissement ou de modification d'une structure de signalisation ferroviaire sur l'emprise existante d'un chemin de fer.

41. Projet de modification de la partie d'un pipeline d'hydrocarbures, d'un égout ou d'un drain existant qui passe sous un chemin de fer ou une route et qui est située dans les limites de l'emprise existante du chemin de fer ou de la route.

42. Projet de modification d'une partie d'un ponceau existant qui, à la fois :

- a) ne communique avec aucun plan d'eau;
- b) passe sous un chemin de fer ou une route;
- c) est située dans les limites de l'emprise existante du chemin de fer ou de la route.

43. Projet de modification, autre qu'une déviation, d'une voie ferrée existante ou du ballast existant, qui, à la fois :

- a) ne serait pas réalisé dans ou sur un plan d'eau ou à moins de 30 m de celui-ci;
- b) n'entraînerait vraisemblablement pas le rejet d'une substance polluante dans un plan d'eau.

44. Projet de modification d'un franchissement routier existant, au sens du paragraphe 4(1) de la *Loi sur la sécurité ferroviaire*, qui, à la fois :

- a) serait réalisé sur une emprise existante;
- b) ne serait pas visé par un ordre donné en vertu du paragraphe 202(1) de la *Loi sur les chemins de fer* ou une ordonnance prise en vertu de ce paragraphe;
- c) ne serait pas réalisé dans ou sur un plan d'eau ou à moins de 30 m de celui-ci;
- d) n'entraînerait vraisemblablement pas le rejet d'une substance polluante dans un plan d'eau.

ANNEXE II  
(articles 4 et 5)LISTE D'EXCLUSION POUR LES PARCS NATIONAUX,  
LES RÉSERVES FONCIÈRES, LES LIEUX  
HISTORIQUES NATIONAUX ET LES CANAUX  
HISTORIQUES

1. Projet de modification, d'entretien ou de réparation d'un bâtiment existant qui n'est pas visé à l'article 2, y compris ses structures fixes, qui, à la fois :

- a) n'en augmenterait pas la superficie au sol ni la hauteur;
- b) ne mettrait pas en cause un bâtiment du patrimoine;
- c) n'entraînerait pas de changement dans le mode d'élimination des eaux usées ni d'augmentation de la quantité d'eaux usées, de résidus ou d'émissions;
- d) ne nécessiterait aucune excavation au-delà de la superficie au sol du bâtiment;



## SCHEDULE II—Continued

- (e) create a need for additional related facilities such as parking spaces; or
- (f) involve the likely release of a polluting substance into the environment.

2. The proposed modification, maintenance or repair of an existing residential building, including its fixed structures, in the Town of Banff or the Town of Jasper described in Schedule I to the *National Parks Lease and Licence of Occupation Regulations (1991)*, in any resort subdivision described in Schedule II to those Regulations or in any visitor centre described in Schedule III to those Regulations, that would not

- (a) be carried out beyond lands subject to an existing lease;
- (b) increase the footprint or height of the building by more than 10 per cent;
- (c) involve a heritage building;
- (d) be carried out in, on or over a water body;
- (e) involve the likely release of a polluting substance into the environment; or
- (f) involve the cutting of indigenous trees.

3. The proposed maintenance or repair of an existing sidewalk, boardwalk or parking lot.

4. The proposed maintenance or repair of an existing fence.

5. The proposed construction, installation, maintenance or repair of a sign within an existing right of way or that is carried out at a distance of less than 15 m from an existing building.

6. The proposed maintenance or repair of an existing road, including pull-off areas, that would be carried out on the existing right of way and would not

- (a) result in the likely release of a polluting substance into a water body; and
- (b) involve the application of oil or salt to the road or of a control product to the areas adjacent to the road.

7. The proposed maintenance or repair of an existing environmental data collection instrument and its housing and enclosure.

8. The proposed construction or installation of an interpretive display or exhibit associated with an existing building, road, pull-off area or trail, where the construction and installation would not

- (a) require an expansion of any existing associated facilities; and
- (b) be located in a special preservation area or a wilderness area set out in a parks management plan laid before each House of Parliament pursuant to subsection 5(1.1) of the *National Parks Act*.

9. The proposed construction, installation, modification, maintenance or repair of a handrail or guard-rail associated with an existing structure.

10. The proposed maintenance or repair of an existing fire tower.

## ANNEXE II (suite)

- e) ne rendrait pas nécessaire l'ajout d'installations connexes telles que des espaces de stationnement;
- f) n'entraînerait vraisemblablement pas le rejet d'une substance polluante dans l'environnement.

2. Projet de modification, d'entretien ou de réparation d'un bâtiment résidentiel existant, y compris ses structures fixes, dans le périmètre urbain de Banff ou le périmètre urbain de Jasper décrits à l'annexe I du *Règlement de 1991 sur les baux et les permis d'occupation dans les parcs nationaux* ou dans les centres de villégiature ou les centres d'accueil décrits respectivement aux annexes II et III de ce règlement, qui, à la fois :

- a) ne serait pas réalisé à l'extérieur des terres assujetties à un bail existant;
- b) n'augmenterait pas la superficie au sol ou la hauteur du bâtiment de plus de 10 pour cent;
- c) ne mettrait pas en cause un bâtiment du patrimoine;
- d) ne serait pas réalisé dans ou sur un plan d'eau ou au-dessus de celui-ci;
- e) n'entraînerait vraisemblablement pas le rejet d'une substance polluante dans l'environnement;
- f) n'entraînerait pas la coupe d'arbres indigènes.

3. Projet d'entretien ou de réparation d'un trottoir, d'un passage en bois ou d'un parc de stationnement existant.

4. Projet d'entretien ou de réparation d'une clôture existante.

5. Projet de construction, d'installation, d'entretien ou de réparation d'un panneau sur une emprise existante, ou qui serait réalisé à moins de 15 m d'un bâtiment existant.

6. Projet d'entretien ou de réparation d'une route existante, y compris les haltes routières, qui serait réalisé sur l'emprise existante et qui, à la fois :

- a) n'entraînerait vraisemblablement pas le rejet d'une substance polluante dans un plan d'eau;
- b) ne nécessiterait l'application d'aucune huile et d'aucun sel sur la route, ou d'aucun produit antiparasitaire sur les aires adjacentes à la route.

7. Projet d'entretien ou de réparation d'un instrument existant de collecte de données sur l'environnement, ainsi que de son boîtier et de son enceinte.

8. Projet de construction ou d'installation de médias ou d'objets d'interprétation associés à un bâtiment, une route, une halte routière ou un sentier existant, qui, à la fois :

- a) ne nécessiterait aucun agrandissement des installations connexes existantes;
- b) ne serait pas réalisé dans une zone de conservation spéciale ou une réserve naturelle désignée dans un plan de gestion de parc déposé devant chaque chambre du Parlement aux termes du paragraphe 5(1.1) de la *Loi sur les parcs nationaux*.

9. Projet de construction, d'installation, de modification, d'entretien ou de réparation d'une main courante ou d'un garde-fou associé à une structure existante.

10. Projet d'entretien ou de réparation de tours de guet existantes.

SCHEDULE II—*Concluded*

11. The proposed operation of an existing physical work that  
(a) would not require a new or renewed licence, permit or approval issued by a federal authority;

(b) would not require a change to the terms and conditions of any existing licence, permit or approval issued by a federal authority; and

(c) is the same as an operation for which an environmental assessment has been previously conducted under either the *Canadian Environmental Assessment Act* or the *Environmental Assessment Review Process Guidelines Order*, where

(i) as a result of the assessment, the environmental effects have been determined to be insignificant taking into account the implementation of mitigation measures, if any, and

(ii) the mitigation measures and follow-up program, if any, have been substantially implemented.

12. The proposed modification, maintenance or repair of an existing buried water, sewer, gas, electricity or telephone service line, other than a line crossing a water body, in the Town of Banff or the Town of Jasper described in Schedule I to the *National Parks Lease and Licence of Occupation Regulations (1991)*, in any resort subdivision described in Schedule II to those Regulations or in any visitor centre described in Schedule III to those Regulations, where the modification, maintenance or repair would

(a) take place in a built-up area;

(b) not involve the cutting of indigenous trees;

(c) not be carried out in or on or within 30 m of a water body;

(d) not involve the likely release of a polluting substance into the environment;

(e) not increase the operating capacity of the water, sewer, gas, electricity or telephone service line; and

(f) not involve a risk of physical harm to mammals.

SCHEDULE III  
(Section 5)

## EXCLUSION LIST FOR HISTORIC CANALS

1. The proposed maintenance or repair of an existing dam, historic canal, lock or retaining wall, where the maintenance or repair would not involve

(a) the removal or the lowering of the level of the water in any part of the canal;

(b) the likely release of a polluting substance into the canal; and

(c) dredging, blasting or filling.

ANNEXE II (*fin*)

11. Projet d'exploitation d'un ouvrage existant, lorsque l'exploitation, à la fois :

a) ne nécessiterait ni la délivrance ni le renouvellement, par une autorité fédérale, d'un permis ou d'une autorisation;

b) ne nécessiterait aucun changement aux conditions d'un permis existant ou d'une autorisation existante, délivré par une autorité fédérale;

c) est identique à une exploitation qui a fait l'objet d'une évaluation environnementale aux termes de la *Loi canadienne sur l'évaluation environnementale* ou du *Décret sur les lignes directrices visant le processus d'évaluation et d'examen en matière d'environnement*, lorsque :

(i) d'une part, à la suite de l'évaluation, les effets environnementaux ont été jugés sans importance, compte tenu de l'application des mesures d'atténuation, le cas échéant;

(ii) d'autre part, les mesures d'atténuation et le programme de suivi, le cas échéant, ont en grande partie été appliqués.

12. Projet de modification, d'entretien ou de réparation de conduits souterrains existants, autre qu'un conduit franchissant un plan d'eau, utilisés pour les services d'eau, d'égout, de gaz, d'électricité ou de téléphone dans le périmètre urbain de Banff ou le périmètre urbain de Jasper décrits à l'annexe I du *Règlement de 1991 sur les baux et les permis d'occupation dans les parcs nationaux* ou dans les centres de villégiature ou les centres d'accueil décrits respectivement aux annexes II et III de ce règlement, lorsque le projet, à la fois :

a) serait réalisé dans une zone bâtie;

b) n'entraînerait pas la coupe d'arbres indigènes;

c) ne serait pas réalisé dans ou sur un plan d'eau ou à moins de 30 m de celui-ci;

d) n'entraînerait vraisemblablement pas le rejet d'une substance polluante dans l'environnement;

e) n'augmenterait pas la capacité de fonctionnement des conduits en cause;

f) ne comporterait aucun risque de lésion pour les mammifères.

ANNEXE III  
(article 5)LISTE D'EXCLUSION POUR LES CANAUX  
HISTORIQUES

1. Projet d'entretien ou de réparation d'un barrage, d'un canal historique, d'une écluse ou d'un mur de soutènement existants, qui, à la fois :

a) ne nécessiterait pas l'assèchement, ni l'abaissement du niveau d'eau, de toute partie du canal;

b) n'entraînerait vraisemblablement pas le rejet d'une substance polluante dans le canal;

c) ne nécessiterait aucun dragage, dynamitage ou remblayage.



SCHEDULE III—*Concluded*

2. The proposed maintenance or repair, that would not result in the likely release of a polluting substance, of an existing structure, where the structure is used

- (a) as a base for navigation aids;
- (b) to control the flow of water in the main channel of a historic canal; or
- (c) as a breakwater.

3. The proposed construction, installation, maintenance or repair of any in-water structure that does not have a solid foundation or penetrate the bed of a historic canal, where that installation, maintenance or repair would not involve

- (a) the likely release of a polluting substance into the canal;
- (b) the use of heavy machinery on the bed of the canal to install or maintain the structure; and
- (c) dredging.

4. The proposed construction, installation, maintenance or repair of shore stabilization works that would not involve

- (a) the likely release of a polluting substance into a historic canal;
- (b) the use of heavy machinery on the bed of the canal;
- (c) dredging or excavation; and
- (d) any encroachment on the bed of the canal.

5. The proposed construction, installation, maintenance or repair of a non-commercial marine railway or boat lift that would not involve

- (a) the likely release of a polluting substance into a historic canal;
- (b) the use of heavy machinery on the bed of the canal to install, maintain or repair the marine railway or boat lift; and
- (c) dredging.

6. The proposed construction, installation, maintenance or repair of an aerial telecommunication or electrical transmission line that would cross or does cross a historic canal and is supported by a single pole on either side of the canal.

7. The proposed construction, installation, maintenance or repair of a submarine cable or submarine utility pipeline, other than an oil and gas pipeline, where the construction, installation, maintenance or repair would not involve

- (a) the crossing of a wetland; and
- (b) any alteration to the bed of a historic canal.

**N.B. The Regulatory Impact Analysis Statement for these Regulations appears at page 3388, following SOR/94-636.**

ANNEXE III (*suite et fin*)

2. Projet d'entretien ou de réparation d'une structure existante qui n'entraînerait vraisemblablement pas le rejet d'une substance polluante, lorsque la structure sert, selon le cas :

- a) de base pour des aides à la navigation;
- b) de moyen de régulariser le débit du chenal principal du canal historique;
- c) de brise-lames.

3. Projet de construction, d'installation, d'entretien ou de réparation d'une structure placée dans l'eau n'ayant pas de fondations solides ou ne pénétrant pas le lit du canal historique, qui, à la fois :

- a) n'entraînerait vraisemblablement pas le rejet d'une substance polluante dans le canal;
- b) n'exigerait l'utilisation d'aucune machinerie lourde sur le lit du canal pour installer ou entretenir la structure;
- c) ne nécessiterait aucun dragage.

4. Projet de construction, d'installation, d'entretien ou de réparation d'ouvrages de stabilisation des berges, qui, à la fois :

- a) n'entraînerait vraisemblablement pas le rejet d'une substance polluante dans le canal historique;
- b) n'exigerait l'utilisation d'aucune machinerie lourde sur le lit du canal;
- c) ne nécessiterait aucun dragage ni aucune excavation;
- d) n'empiéterait pas sur le lit du canal.

5. Projet de construction, d'installation, d'entretien ou de réparation d'un slip ou d'un ascenseur à bateaux utilisé à des fins non commerciales, qui, à la fois :

- a) n'entraînerait vraisemblablement pas le rejet d'une substance polluante dans le canal historique;
- b) n'exigerait l'utilisation d'aucune machinerie lourde sur le lit du canal pour installer, entretenir ou réparer le slip ou l'ascenseur;
- c) ne nécessiterait aucun dragage.

6. Projet de construction, d'installation, d'entretien ou de réparation d'une ligne de télécommunications aérienne ou d'une ligne de transport d'électricité aérienne qui franchirait ou franchit le canal historique et qui est portée par un poteau simple de chaque côté du canal.

7. Projet de construction, d'installation, d'entretien ou de réparation d'un câble sous-marin ou d'une canalisation sous-marine, autre qu'un pipeline d'hydrocarbures, qui, à la fois :

- a) n'entraînerait pas le franchissement de terres humides;
- b) n'entraînerait aucune perturbation du lit du canal historique.

**N.B. Le résumé de l'étude d'impact de la réglementation de ce règlement se trouve à la page 3388, suite au DORS/94-636.**







